
Call to Order – Arkena L. Dailey, PT, DPT, Board President

- Welcome and Introductions
- Emergency Egress Procedures
- Mission of the Board

Approval of Minutes

- Board Meeting – November 13, 2018
- Telephonic Conference - December 4, 2018
- For informational purposes – Informal Conferences November 13, 2018, January 14, 2019

Ordering of Agenda

Public Comment

The Board will receive public comment at this time. The Board will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Agency Report

Staff Reports

- Executive Director’s Report – **Corie E. Tillman Wolf, Executive Director**
- Discipline Report – **Lynne Helmick, Deputy Executive Director**

Board Counsel Report - Erin Barrett, Assistant Attorney General

Committee and Board Member Reports

- Board of Health Professions Report – **Allen R. Jones, Jr., PT, DPT**
- Legislative/Regulatory Committee Report – **Tracey Adler, PT, DPT**

Legislation and Regulatory Actions – Elaine Yeatts, Sr. Policy Analyst

- Report on Regulatory Actions
- Update on Legislation for Physical Therapy Licensure Compact
- Response to Petition for Rulemaking (Curley)
- Review Recommendations from Legislative/Regulatory Committee
 - Adopt NOIRA for proposed changes from Periodic Review (18VAC112-20-10 et seq.)

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- Revisions to Guidance Document 112-10 – Board Guidance on Credit for Continuing Education
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Board Training

- The Disciplinary Process – **Erin Barrett, Assistant Attorney General**
 - Probable Cause
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Next Meeting – May 16, 2019

Meeting Adjournment

This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3707 (F).

Approval of Minutes

November 13, 2018

The Virginia Board of Physical Therapy convened for a full board meeting on Tuesday, November 13, 2018 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #4, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Arkena L. Dailey, PT, DPT, President
Elizabeth Locke, PT, PhD, Vice-President
Allen R. Jones, Jr., PT, DPT
Tracey Adler, PT, DPT
Mira H. Mariano, PT, PhD, OCS
Susan Palmer, MLS
Rebecca Duff, M.S.Ed., PTA

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Barbara Allison-Bryan, MD, DHP Chief Deputy Director
Erin Barrett, Assistant Attorney General, Board Counsel
Sarah Georgen, Licensing and Operations Manager
Lynne Helmick, Deputy Director
Laura Mueller, Program Manager
Angela Pearson, Senior Discipline Operations Manager
Corie Tillman Wolf, Executive Director
Elaine Yeatts, Sr. Policy Analyst

OTHER GUESTS PRESENT

Neal Kauder, VisualResearch, Inc.
Kim Small, VisualResearch, Inc.
Richard Grossman, Virginia Physical Therapy Association

CALL TO ORDER

Dr. Arkena L. Dailey, PT, DPT, Board President, called the meeting to order at 9:30 a.m. and asked the Board members and staff to introduce themselves.

With seven members present at the meeting, a quorum was established.

Dr. Dailey read the mission of the Board, which is also the mission of the Department of Health Professions.

Dr. Dailey provided reminders to the Board members and audience regarding microphones, sign in sheets, computer agenda materials, and breaks.

Ms. Tillman Wolf then read the emergency egress instructions.

WELCOME NEW BOARD MEMBER

Dr. Dailey welcomed Rebecca Duff, a newly appointed Board member, who succeeded Sarah Schmidt.

APPROVAL OF MINTUES

Upon a **MOTION** by Dr. Jones, and properly seconded by Dr. Mariano, the Board voted to accept the following meeting minutes:

- Board Meeting – August 16, 2018

The motion passed unanimously.

ORDERING OF THE AGENDA

Ms. Tillman Wolf requested to add Mr. Kauder to the agenda, who will present on the revised Sanctioning Reference Points Worksheet with Ms. Small. Ms. Tillman Wolf also stated that Ms. Yeatts and Dr. Allison-Bryan will be intermittently unavailable due to another previously scheduled Board meeting.

Upon a **MOTION** by Dr. Locke and properly seconded by Dr. Jones, the Board voted to accept the agenda as written with the notations from Ms. Tillman Wolf. The motion passed unanimously.

PUBLIC COMMENT

There was no public comment.

AGENCY REPORT – Barbara Allison-Bryan, M.D., Chief Deputy Director

Dr. Allison-Bryan noted that Dr. Brown is unavailable due to a previously scheduled meeting.

Dr. Allison-Bryan reported on the security updates of the DHP building noting that the security desk on the first floor would be moved to the center of the hall to allow for visitors to check in with the security desk. Additionally, she requested that all Board members submit their entry badges to Board staff to be deactivated. She announced that temporary badges would be provided to Board members at each meeting to ensure proper entry to the building.

Dr. Allison-Bryan announced that a media summit would take place later that week at Virginia Commonwealth University to assist the media in informing the public about the opioid crisis affecting the Commonwealth. Diane Powers, Director of Communications would oversee the discussion, along with the Director of the Prescription Monitoring Program, Ralph Orr, and representatives from agencies including the Department of Behavioral Health and Developmental Services.

With no further questions, Dr. Allison-Bryan concluded her report.

STAFF REPORTS

Executive Director’s Report – Corie E. Tillman Wolf, JD, Executive Director

Ms. Tillman Wolf welcomed Rebecca Duff as a new Board member.

Ms. Tillman Wolf congratulated the Board on receiving the FSBPT’s Excellence in Regulation Award for 2018.

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of June 30, 2018.

Cash Balance as of June 30, 2018	\$1,101,620
YTD FY19 Revenue	\$40,330
Less YTD Direct & In-Direct Expenditures	\$149,752
Cash Balance as of September 30, 2018	\$992,198

Ms. Tillman Wolf provided FSBPT updates from the October 25-27, 2018 Annual Meeting in Reston, VA attended by Dr. Dailey and Dr. Locke. She also provided updates from the PT Compact Commission Meeting on October 28, 2018.

Ms. Tillman Wolf provided an update to the FSBPT PT Compact noting that 21 states have enacted the compact, with 16 states interested in joining. Further, she noted that six states currently are issuing Compact privileges and nine additional states planning to issue Compact privileges by January 2019.

Ms. Tillman Wolf provided the Board and public with the revised Bylaws and Rules, Policies and Procedures Manual. Additionally, she provided the draft legislation for Virginia, as well as the Virginia Physical Therapy Association’s (VPTA) letter of support.

Ms. Tillman Wolf reported that there were many topics of discussion at the annual meeting to include the re-entry to practice task-force, online verification task force, board planning and self-assessment, continuing competence and professional engagement/development, and clinical well-being. She noted that the Exam, Licensure, and Discipline Database (ELDD) indicates a 5-star overall rating, with 5-stars listed for licensing and 3-stars listed for discipline. Ms. Tillman Wolf explained the process used by FSBPT for the rating system for discipline.

Ms. Tillman Wolf announced that 1,398 Virginia licensees were currently registered for aPTitude, which is an 11.2% increase of licensees since the last meeting. She noted that APTA courses can be found/recorded through aPTitude. Additionally, she noted that 14 Virginia licensees have accessed the oPTion assessment tool.

Ms. Tillman Wolf announced that the FSBPT Annual Regulatory Training for Board members and staff will be held in Alexandria, Virginia in June 2018. Additionally, she announced the FSBPT Leadership Issues Forum will be held in Alexandria, Virginia on July 13-14, 2019; and the FSBPT Annual Meeting and Delegate Assembly in Oklahoma City, OK on October 24-26, 2019.

Ms. Tillman Wolf announced that the Board’s biennial renewals were successfully sent to licensees on October 30, 2018. She noted that 98% of PT and 97% of PTA email addresses were on file with the Board. She stated that a reminder notice would be sent to those who have not renewed by the beginning of December.

Ms. Tillman Wolf stated that an October Newsletter of the Board was sent to all licensees by email. She noted that there were 2,427 visits to the Board’s website to view the newsletter. She announced that the Board’s newsletter was featured in the FSBPT November newsletter.

Ms. Tillman Wolf stated that a presentation was provided to third-year DPT students at Old Dominion University in September 2018, and Ms. Tillman Wolf provided new Board member orientation to Ms. Duff on October 12, 2018. Additionally, she noted that the Biennial Report for the 2017-2018 fiscal year had been completed, with a copy of the Board of Physical Therapy section provided to Board members. She also stated that Board staff has begun the process of brainstorming the Compact process.

Ms. Tillman Wolf presented licensure statistics that included the following information:

Licensure Statistics – All Licenses

License	November 5, 2018	August 14, 2018	Change +/-
Physical Therapist	9,022	8,779	243
Physical Therapist Assistant	3,718	3,630	88
Total PT’s and PTA’s	12,740	12,409	331
Direct Access Certification	1,223	1,211	12

Ms. Tillman Wolf presented the PT Exam Statistics from October 24, 2018 which included the following:

	# who took exam	# Passed	1 st time test takers	Repeat test takers	# Failed	1 st time testers	Repeat Test Takers
US Applicants	43	31	22	9	12	5	7
Non-CAPTE Applicants	4	0	0	0	4	1	3
Total	47	31	22	9	16	6	10

Ms. Tillman Wolf presented the PTA Exam Statistics from October 3, 2018 which included the following:

	# who took exam	# Passed	1 st time test takers	Repeat test takers	# Failed	1 st time testers	Repeat Test Takers
US Applicants	73	50	40	10	23	4	19
Non-CAPTE Applicants	0	0	0	0	0	0	0
Total	73	50	40	10	23	4	19

Ms. Tillman Wolf provided the following statistics regarding the Virginia Performs – Customer Satisfaction Survey Results:

- Q3 2017 – 100%
- Q4 2017 – 98.9%
- Q1 2018 – 97.3%
- Q2 2018 – 100%
- Q3 2018 – 86.8%
- Q4 2018 – 100%

Ms. Tillman Wolf announced that the customer satisfaction statistics from the FSBPT show that Virginia’s statistics are above the national average at 92.4%.

The Board meeting dates for 2019 are:

- February 19, 2019 – 9:30 a.m.
- May 16, 2019 – 9:30 a.m.
- August 13, 2019 – 9:30 a.m.
- November 12, 2019 – 9:30 a.m.

Ms. Tillman Wolf provided reminders to the Board members changes in contact information and the handling of confidential investigative case materials by Board members.

With no further questions, Ms. Tillman Wolf concluded her report.

Discipline Report – Lynne Helmick, Deputy Executive Director

Ms. Helmick, Deputy Executive Director, reported on the current number of open cases, discipline statistics and Key Performance Measures.

As of November 1, 2018, Ms. Helmick reported the following disciplinary statistics:

- 44 total cases
 - 1 in Administrative Proceedings Division
 - 1 in Formal Hearing
 - 5 in Informal Conferences
 - 13 in Investigation
 - 24 in Probable Cause
 - 7 in Compliance

Ms. Helmick reported the following Total Cases Received and Closed:

- Q4 2016 – 6/9
- Q1 2017 – 8/4
- Q2 2017 – 9/9
- Q3 2017 – 7/5
- Q4 2017 – 21/9
- Q1 2018 – 6/10
- Q2 2018 – 15/7
- Q3 2018 – 9/2
- Q4 2018 – 4/4

Ms. Helmick reported the following Virginia Performs statistics for Q4 2018:

- Clearance Rate – 75% Received 4 patient cases and closed 3 cases
- Pending Caseload over 250 days was at 32% which is over the 20% goal, which represents 11 cases
- Cases closed within 250 days is 0% - 0 cases closed within 250 days (Goal is over 90%)

Ms. Helmick provided the following information of All Case Information:

- Percentage of all cases closed in 250 days

	Q4 – 2017	Q1 – 2018	Q2 – 2018	Q3 – 2018	Q4 - 2018
PT	44%	90%	100%	100%	90.5%
Agency	86.7%	82.2%	86.7%	87.6%	80.6%

- Average days to close a case

	Q4 – 2017	Q1 – 2018	Q2 – 2018	Q3 – 2018	Q4 – 2018
PT	291.3	239.4	112	152.5	412.8
Agency	194.1	255.7	186.5	196.4	201.1

Ms. Helmick provided the following information regarding the categories of disciplinary cases processed in fiscal year 2018:

- 9 cases total
 - 1 records fraud
 - 1 impairment
 - 2 out of state Orders
 - 3 CE audit cases

- 1 confidentiality
- 1 records (other)

With no further questions, Ms. Helmick concluded her report.

BOARD COUNSEL REPORT – Erin Barrett, Assistant Attorney General

Ms. Barrett updated the Board members on *Myer v. Northam, et al.*, which has been ongoing in the Eastern District of Virginia federal court.

Additionally, Ms. Barrett reminded Board members that text messages regarding Board business should not be exchanged, as the information could be requested under the Freedom of Information Act (FOIA).

COMMITTEE AND BOARD MEMBER REPORTS

Board of Health Professions Report – Allen R. Jones, PT, DPT

Dr. Jones stated that the Board of Health Professions met on August 23, 2018. He noted that the meeting minutes from the meeting were included in the agenda packet.

Reports from FSBPT Annual Meeting – Arkena L. Dailey, PT, DPT, and Elizabeth Locke, PT, PhD

Dr. Dailey stated that she provided the welcome and introduction to the FSBPT Annual meeting by providing an overview of Virginia, a presentation of current Board members, and a welcome video from Justin Fairfax, Virginia Lieutenant Governor. Dr. Dailey also reported that she was a candidate for the Board of Directors, but was not elected; however, she announced that she participated as part of the FSBPT Education Committee which plans the educational sessions for the annual meetings and provides logistical support throughout the meeting. She noted that she attended several workshops. One take away in particular was the new online resources available for foreign educated candidates. Dr. Dailey mentioned that the FSBPT reviewed six areas of focus and they included membership, examinations (changes for Foreign educated clinicians, etc.), their emphasis to continue to educate all jurisdiction Boards on their programs and products, addressing states' rights and standards, and they were focusing on increasing their leadership with joint efforts within the profession and regulatory communities (i.e. APTA).

Dr. Locke stated that she represented the Board as a voting delegate and it was a pleasure to represent the Board. She emphasized the importance of volunteering by board members to promote collaboration. She stated that she submitted her name to volunteer for the Ethics and Legislation Committee, which is responsible for developing and analyzing methods to improve consumer protection. She noted that Virginia is a front-runner in the U.S. and is respected by other boards. She had several takeaways from the meeting, including efforts to increase diversity and engagement with other boards/internationally. She reported that she further discussed the issue of diversity with Dr. Kirsh, FSBPT President, and recommended that FSBPT look at data regarding diversity.

BREAK

The Board took a break at 10:44 a.m. and returned at 10:58 a.m.

USE OF THE REVISED SANCTIONING REFERENCE POINTS WORKSHEET – Kim Small and Neal Kauder, VisualResearch, Inc.

Ms. Small provided a training presentation on the revised Sanctioning Reference Points (SRP) Manual. The use of the SRPs by Board members during informal conferences ensures transparency and due process during the disciplinary process.

Upon a **MOTION** by Dr. Jones and properly seconded by Ms. Duff, the Board voted to amend the SRP Manual to read “Dual relationship, sexual relations or other boundary issue” located on pages seven and eleven and to amend a term on page eight to read “Restriction on patient type.” The motion passed unanimously.

Dr. Mariano left the Board meeting at 11:37 a.m.

LEGISLATION AND REGULATORY ACTIONS – Elaine Yeatts, Senior Policy Analyst

Report on Regulatory Actions

Ms. Yeatts provided a brief overview of the status of the current regulations at the Secretary’s office.

Ms. Yeatts further stated that the Board’s regulations were due for a periodic review and explained the periodic review process.

Upon a **MOTION** by Ms. Palmer and properly seconded by Dr. Jones, the Board voted to provide public notice of the Board’s Periodic Review of the Public Participation Guidelines (PPG) and Regulations. The motion passed unanimously.

Update on Legislation for Physical Therapy Licensure Compact

Ms. Yeatts provided an overview of the Physical Therapy Compact and noted that the bill had been approved as part of the Governor’s legislative package for the 2019 General Assembly and noted that if approved, the adoption of Regulations would be required for implementation.

Ms. Tillman Wolf explained further that if approved by the General Assembly, the actual compact privileges likely would become effective January 1, 2020 due to the provisions for criminal background checks.

Consideration of Revisions to Guidance Documents

Guidance Document 112-21: Guidance on Telehealth

Ms. Yeatts provided an overview of proposed changes to the Board’s Guidance Document on Telehealth including a deletion of language to clarify the location of practice as where the client is located. Ms. Tillman Wolf further explained a minor change to language in the definition of telehealth.

Upon a **MOTION** by Dr. Locke and properly seconded by Ms. Palmer, the Board voted to amend “Section Two: Definition” to read “This guidance on “telehealth” does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire”; to remove “and the state where the practitioner is located” from “Section Seven: Licensure”; and to amend “telemedicine” to “telehealth” located in “Section Thirteen: Guidance Document Limitations” (Attachment A). The motion passed unanimously.

Guidance Document 112-10: Guidance on Credit for Continuing Education

Ms. Yeatts and Ms. Tillman Wolf provided background information for the proposed draft language for revisions to the Board’s Guidance Document related to Credit for Continuing Education. Board members discussed the need for further discussion of the proposed language, which Ms. Yeatts indicated may require a change to the regulations.

Upon a **MOTION** by Dr. Adler and properly seconded by Ms. Duff, the Board voted to remove the last two bullet points on the document (Attachment B) referring to contact hours for classroom teaching and clinical instruction or research. The motion carried with a majority vote, with one member (Locke) opposed.

Dr. Dailey requested the Legislative/Regulatory Committee review the continuing education requirements prior to the next Board meeting.

Guidance Document 112-22: Procedures for Auditing Continued Competency Requirements

Ms. Yeatts provided an overview of changes to the Guidance Document to include reference to completion of the FSBPT assessment tool as possible condition for PHCOs and CCAs based upon failure to meet active practice requirements.

Upon a **MOTION** by Dr. Jones and properly seconded by Dr. Locke, the Board voted to accept the amendments to the Guidance Document (Attachment C). The motion passed unanimously.

NEW BUSINESS

Board Committee Assignments – Arkena L. Dailey, PT, DPT

Dr. Dailey noted that the Committee Members list was included in the agenda packet for review and asked if any Board members had suggested changes to their assignments. Dr. Dailey approved the 2018-2019 Committee list.

Survey of Licensees Regarding Interest in PT Licensure Compact – Corie E. Tillman Wolf

Ms. Tillman Wolf stated that the Department of Health Professions (DHP) has the ability to issue a survey to Physical Therapists and Physical Therapy Assistants to ask a series of questions related to the compact. She explained that the survey would be used to determine interest in the PT Licensure Compact and determine what licensees know about it. Ms. Tillman Wolf explained the benefits of this survey to help educate licensees and have the results available to the General Assembly, if needed. Dr. Dailey opened the floor for questions or discussion. Dr. Dailey stated that there was no opposition to the creation of the survey and requested the results at the February Board meeting.

Consideration of Board Membership in INPTRA – Corie E. Tillman Wolf

Ms. Tillman Wolf provided an overview of the purpose of INPTRA and stated that the membership of this organization would be an annual membership fee of \$500. She noted that the organization would provide access to international information related to the regulation of physical therapy. Dr. Locke stated that this type of organization would align with the Board’s agenda of diversity. Ms. Barrett asked the Board members to consider how joining the organization would support patients living in Virginia. Dr. Adler noted that it would provide research on a global level and may help patients here in Virginia.

Upon a **MOTION** by Dr. Locke and properly seconded by Dr. Jones, the Board voted to accept the membership of INPTRA. The motion passed unanimously.

NEXT MEETING

The next meeting date is February 19, 2019.

ADJOURNMENT

With all business concluded, the meeting adjourned at 12:23 p.m.

Arkena L. Dailey, PT, DPT, President

Corie Tillman Wolf, J.D., Executive Director

Date

Date

Virginia Board of Physical Therapy Guidance on Telehealth

Section One: Preamble

The Board of Physical Therapy recognizes that using telehealth services in the delivery of physical therapy services offers potential benefits in the provision of care. Advancements in technology have created expanded and innovative treatment options for physical therapist and clients. The appropriate application of these services can enhance care by facilitating communication between practitioners, other health care providers, and their clients. The delivery of physical therapy services by or under the supervision of a physical therapist via telehealth in physical therapy falls under the purview of the existing regulatory body and the respective practice act and regulations. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telehealth services. Therefore, physical therapy practitioners must apply existing laws and regulations to the provision of telehealth services.

The Board issues this guidance document to assist practitioners with the application of current laws to telehealth service practices. These guidelines should not be construed to alter the scope of physical therapy practice or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. For clarity, a physical therapist using telehealth services must take appropriate steps to establish the practitioner-patient (client) relationship and conduct all appropriate evaluations and history of the client consistent with traditional standards of care for the particular client presentation. As such, some situations and client presentations are appropriate for the utilization of telehealth services as a component of, or in lieu of, in-person provision of physical therapy care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The board has developed these guidelines to educate licensees as to the appropriate use of telehealth services in the practice of physical therapy. The Board is committed to ensuring patient access to the convenience and benefits afforded by telehealth services, while promoting the responsible provision of physical therapy services.

It is the expectation of the Board that practitioners who provide physical therapy care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of the client first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the physical therapy profession;
- Adhere to applicable laws and regulations;
- Properly supervise PTA's and support personnel;
- Protect client confidentiality.

Section Two: Definition

Telehealth is the use of electronic technology or media including interactive audio or video to engage in the practice of physical therapy. In this guidance document, “telehealth” does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

Section Three: Responsibility for and Appropriate Use of Technology

A client’s appropriateness for evaluation and treatment via telehealth should be determined by the Physical Therapist on a case-by-case basis, with selections based on physical therapist judgment, client preference, technology availability, risks and benefits, and professional standards of care. A PT is responsible for all aspects of physical therapy care provided to a client, and should determine and document the technology used in the provision of physical therapy. Additionally, the PT is responsible for assuring the technological proficiency of those involved in the client’s care.

Section Four: Verification of Identity

Given that in the telehealth clinical setting the client and therapist are not in the same location and may not have established a prior in-person relationship, it is critical, at least initially, that the identities of the physical therapy providers and client be verified. Photo identification is recommended for both the client and all parties who may be involved in the delivery of care to the client. The photo identification, at minimum, should include the name of the individual; however, personal information such as address or driver’s license number does not have to be shared or revealed. The client may utilize current means, such as state websites, to verify the physical therapy provider is licensed in the originating jurisdiction (where the client is located and receiving telehealth services).

Section Five: Informed Consent

Clients should be made aware of any limitations that telehealth services present as compared to an in-person encounter for that client’s situation, such as the inability to perform hands-on examination, assessment and treatment, clients should give consent to such services and evidence documenting appropriate client informed consent for the use of telehealth services should be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the client, the practitioner, and the practitioner’s credentials;
- Types of activities permitted using telehealth services (e.g. such as photography, recording or videotaping the client.);

- Details on security measures taken with the use of telehealth services, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express client consent to forward client-identifiable information to a third party.

Section Six: Physical therapist/Client Relationship

Developing a physical therapist/client relationship is relevant regardless of the delivery method of the physical therapy services. As alternative delivery methods such as telehealth emerge, it bears stating that the PT/client relationship can be established in the absence of actual physical contact between the PT and client. Just as in a traditional (in-person) encounter, once the relationship is established, the therapist has an obligation to adhere to the reasonable standards of care for the client (duty of care).

Section Seven: Licensure

The practice of physical therapy occurs where the client is located at the time telehealth services are provided. A practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the client is located. Practitioners who evaluate or treat through online service sites must possess appropriate licensure in all jurisdictions where clients receive care.

Section Eight: Standards of Care

It is the responsibility of the PT to ensure the standard of care required both professionally and legally is met. As such, it is incumbent upon the PT to determine which clients and therapeutic interventions are appropriate for the utilization of technology as a component of, or in lieu of, in-person provision of physical therapy care. Physical therapy providers should be guided by professional discipline, best available evidence, and any existing clinical practice guidelines when practicing via telehealth. Physical therapy interventions and/or referrals/consultations made using technology will be held to the same standards of care as those in traditional (in-person) settings. The documentation of the telehealth encounter should be held at minimum to the standards of an in-person encounter. Additionally, any aspects of the care unique to the telehealth encounter, such as the specific technology used, should be noted.

Section Nine: Privacy and Security of Client Records and Exchange of Information

In any physical therapy encounter, steps should be taken to ensure compliance with all relevant laws, regulations and codes for confidentiality and integrity of identifiable client health information. Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telehealth services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required client information to be included in the communication, such as client name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be

periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Ten: Client Records

The client record should include, if applicable, copies of all client-related electronic communications, including client-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth services. Informed consents obtained in connection with an encounter involving telehealth services should also be filed in the medical record. The client record established during the use of telehealth services should be accessible to both the practitioner and the client, and consistent with all established laws and regulations governing client healthcare records.

Section Eleven: Technical Guidelines

Physical therapy providers need to have the level of understanding of the technology that ensures safe, effective delivery of care. Providers should be fully aware of the capabilities and limitations of the technology they intend to use and that the equipment is sufficient to support the telehealth encounter, is available and functioning properly and all personnel are trained in equipment operation, troubleshooting, and necessary hardware/software updates. Additionally, arrangements should be made to ensure access to appropriate technological support as needed.

Section Twelve: Emergencies and Client Safety Procedures

When providing physical therapy services, it is essential to have procedures in place to address technical, medical, or clinical emergencies. Emergency procedures need to take into account local emergency plans. Alternate methods of communication between both parties should be established prior to providing telehealth services in case of technical complications. It is the responsibility of the provider to have all needed information to activate emergency medical services to the clients' physical location if needed at time of the services are being provided. If during the provision of services the provider feels that the client might be experiencing any medical or clinical complications or emergencies, services should be terminated and the client referred to an appropriate level of service.

Section Thirteen: Guidance Document Limitations

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telehealth services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Guidance on Credit for Continuing Education

Board of Physical Therapy

In response to requests for interpretation on continuing education credits, the Board has adopted the following guidance:

- One credit hour of a college course is considered equivalent to 15 contact hours of Type 1 continuing education.
- Courses directly related to the clinical practice of physical therapy and are sponsored by providers approved by other state licensing boards may be considered for Type 1 continuing education.
- Research and preparation for the clinical supervision experience or teaching of workshops or courses in a classroom setting constitute Type 2 activities.
- Classroom teaching of physical therapy topics and clinical supervision constitute Type 2 activities.

Virginia Board of Physical Therapy

Procedures for Auditing Continued Competency Requirements

The Board of Physical Therapy may audit a random sample of licensees to investigate compliance with the Board's continuing competency requirements and active practice requirements. The Board may also audit active licensees, who by terms of a Confidential Consent Agreement ("CCA") or a Pre-Hearing Consent Order ("PHCO"), are required to take continuing education ("CE") courses in addition to the continued competency requirements for renewal of a license.

1. Board staff reviews each audit report and either:
 - a. Sends an acknowledgement letter of fulfillment of the continuing competency requirements and active practice requirements, or
 - b. Opens a case for probable cause.
2. Once a case is opened for probable cause, Board staff may:
 - a. Issue a CCA if the licensee was truthful in responding to the renewal attestation and the licensee has not previously been found in violation of CE or active practice requirements.
 1. For those licensees who fail to meet the CE requirements, the CCA may require the licensee to submit proof of completion of the missing contract hours(s) within 90 days of the effective date of the CCA. Such contact hours cannot be used toward fulfillment of the next biennial CE requirement for renewal;
 2. For those licensees who fail to meet the active practice requirement, the CCA may require them to submit proof that they meet at least Level 2 on the current assessment tool developed and administered by the Federation of State Boards of Physical Therapy (FSBPT) within 90 days of CCA entry; or
 - b. Issue a PHCO if the licensee was not truthful in responding to the renewal attestation or the licensee has previously been found in violation of CE or active practice requirements. The following sanctions may apply:
 - (i) Monetary Penalty of \$100 per missing contact hour, up to a maximum of \$1,000;
 - (ii) Monetary Penalty of \$300 for a fraudulent renewal certification;
 - (iii) For those licensees who fail to meet the CE requirements, submission of proof of completion of the missing contact hour(s) within 90 days of Order entry. These contact hours cannot be used toward the next biennial requirement for renewal; and

(iv) For those licensees who fail to meet the active practice requirement, submission of proof that they meet at least Level 2 on the current assessment tool developed and administered by the FSBPT within 90 days of Order entry.

3. The case will be referred to an informal fact-finding conference if the licensee:
 - a. Fails to respond to the audit or does not wish to sign the CCA or PHCO that is offered; or
 - b. Has previously been disciplined pursuant to a Board Order for not meeting the CE requirements.

**UNAPPROVED
VIRGINIA BOARD OF PHYSICAL THERAPY
MINUTES**

Tuesday, December 4, 2018
12:00 p.m.

Department of Health Professions
9960 Mayland Drive, Suite #300
Henrico, Virginia 23233

DATE, TIME & PLACE: On December 4, 2018, at 12:00 p.m., the Board of Physical Therapy convened by telephone conference call to consider whether a practitioner's ability to practice as Physical Therapist constituted a substantial danger to public health and safety pursuant to Va. Code §54.1-2408.1. A quorum of the Board was present, with Dr. Arkena Dailey, Board Chair, presiding.

MEMBERS PRESENT: Arkena Dailey, PT, DPT, Chair
Elizabeth Locke, PT, PhD Vice Chair
Tracey Adler, PT, DPT
Susan Palmer, MLS, Citizen Member
Rebecca Duff, MSED, PTA

MEMBERS ABSENT: Mira Mariano, PT, PhD
Allen Jones, Jr., PT, DPT

BOARD COUNSEL: Erin Barrett, Assistant Attorney General,

DHP STAFF PRESENT: Corie Tillman Wolf, Executive Director
Lynne Helmick, Deputy Executive Director
Angela Pearson, Senior Discipline Operations Manager

PARTIES ON BEHALF OF COMMONWEALTH: Wayne Halbleib, Assistant Attorney General
Jessica Kelley, Adjudication Specialist

MATTER CONSIDERED: **Paul Choi, PT**
License No.: 2305-210027
Case No.: 189423

The Board received information from Assistant Attorney General, Wayne Halbleib in order to determine whether Dr. Choi's ability to practice as a physical therapist constituted a substantial danger to public health and safety. Mr. Halbleib provided details of the case to the Board for its consideration.

CLOSED SESSION: Upon a motion by Dr. Elizabeth Locke and duly seconded by Dr. Tracey Adler, the Board voted to convene a closed meeting at 12:30 p.m., pursuant to §2.2-3711.A(27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Dr. Paul Choi, PT.

Additionally Dr. Locke moved that Ms. Tillman Wolf, Ms. Helmick, Ms. Pearson, and Ms. Barrett attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

RECONVENE: Upon a motion by Dr. Adler, the committee reconvened at 1:00 p.m.

CERTIFICATION: Dr. Locke certified the matters discussed in the closed session met the requirements of §2.2-3712 of the code of Virginia and the Board reconvened in open session.

DECISION: Upon a motion by Dr. Elizabeth Locke, and duly seconded by Dr. Arkena Dailey, the Board determined that Dr. Choi’s ability to practice constituted a substantial danger to the public health and safety. The board voted to summarily suspend his license to practice as a physical therapist, simultaneous with the institution of proceedings for a formal administrative hearing pursuant to §54.1-2408.1 of the Code of Virginia. The Board voted to offer Dr. Choi a consent order for revocation of his license to practice as a physical therapist, in lieu of a formal administrative hearing.

VOTE: The vote was unanimous.

ADJOURNMENT: The board adjourned at 1:06 p.m.

Dr. Arkena Dailey, PT, DPT, Chair

Corie Tillman Wolf, J.D., Executive Director

Date

Date

Unapproved
VIRGINIA BOARD OF PHYSICAL THERAPY
SPECIAL CONFERENCE COMMITTEE
MINUTES

November 13, 2018

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233

CALL TO ORDER: A Special Conference Committee of the Board was called to order at 1:05 p.m.

MEMBERS PRESENT: Elizabeth Locke, PT, PhD, Chair
Tracey Adler, PT, DPT

DHP STAFF PRESENT: Lynne Helmick, Deputy Executive Director
Angela Pearson, Discipline Manager
Jessica Kelley, Adjudication Specialist

OTHERS PRESENT: C. Nelson

MATTER: **Pamela Nelson, PTA**
Case # 178243

DISCUSSION: Ms. Nelson appeared before the Committee in accordance with the Board's Notice of Informal Conference, dated August 21, 2018.

The Committee fully discussed the allegations as referenced in the August 21, 2018, Notice of Informal Conference.

CLOSED SESSION: Upon a motion by Dr. Adler, and duly seconded by Dr. Locke, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Pamela Nelson, PTA. Additionally, she moved that Ms. Helmick and Ms. Pearson attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session and announced its decision.

DECISION:

Upon a motion by Dr. Adler and duly seconded by Dr. Locke, the Committee issued a reprimand to Ms. Nelson and ordered that Ms. Nelson complete Board-approved courses of at least three Type 1 credit hours each in the subjects of ethics and documentation within 120 days of entry of the Order.

The motion carried.

ADJOURNMENT:

The Committee adjourned at 2:00 p.m.

Elizabeth Locke, PT, PhD, Chair

Corie Tillman Wolf, JD, Executive Director

Date

Date



Unapproved
VIRGINIA BOARD OF PHYSICAL THERAPY
SPECIAL CONFERENCE COMMITTEE
MINUTES

November 13, 2018

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233

CALL TO ORDER: A Special Conference Committee of the Board was called to order at 2:05 p.m.

MEMBERS PRESENT: Elizabeth Locke, PT, PhD, Chair
Tracey Adler, PT, DPT

DHP STAFF PRESENT: Lynne Helmick, Deputy Executive Director
Angela Pearson, Discipline Manager
Jessica Kelley, Adjudication Specialist

MATTER: **Mariah Hall, PTA**
Case # 180768

DISCUSSION: Ms. Hall did not appear before the Committee in accordance with the Board's Notice of Informal Conference, dated August 21, 2018

By letter dated August 21, 2018, the Board sent a Notice of Informal Conference to Ms. Hall notifying her that an informal conference would be held on November 13, 2018. The Notice was sent by certified mail to the legal address of record on file with the Board. The Notice sent to Ms. Hall via certified mail was returned unclaimed to the Board office on October 29, 2018. Accordingly, the Committee Chair concluded that adequate notice was provided to Ms. Hall and the informal conference proceeded in her absence.

The Committee fully discussed the allegations as referenced in the August 21, 2018, Notice of Informal Conference.

CLOSED SESSION: Upon a motion by Dr. Adler, and duly seconded by Dr. Locke, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Mariah Hall, PTA. Additionally, she moved that Ms. Helmick and Ms. Pearson attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.

RECONVENE:

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session and announced its decision.

DECISION:

Upon a motion by Dr. Adler and duly seconded by Dr. Locke, the Committee voted to issue an Order requiring that Ms. Hall either provide evidence that she has completed the 30 hours of CE and 160 hours of active practice or place her license on "Inactive" status.

The motion carried.

ADJOURNMENT:

The Committee adjourned at 2:16 p.m.

Elizabeth Locke, PT, PhD, Chair

Corie Tillman Wolf, JD, Executive Director

Date

Date



Unapproved
VIRGINIA BOARD OF PHYSICAL THERAPY
SPECIAL CONFERENCE COMMITTEE
MINUTES

November 13, 2018

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233

CALL TO ORDER: A Special Conference Committee of the Board was called to order at 2:18 p.m.

MEMBERS PRESENT: Elizabeth Locke, PT, PhD, Chair
Tracey Adler, PT, DPT

DHP STAFF PRESENT: Lynne Helmick, Deputy Executive Director
Angela Pearson, Discipline Manager
Jessica Kelley, Adjudication Specialist

MATTER: **Crystal Baker, PTA**
Case # 180637

DISCUSSION: Ms. Baker did not appear before the Committee in accordance with the Board's Notice of Informal Conference, dated August 21, 2018

By letter dated August 21, 2018, the Board sent a Notice of Informal Conference to Ms. Baker notifying her that an informal conference would be held on November 13, 2018. The Notice was sent by certified mail to the legal address of record on file with the Board. Accordingly, the Committee Chair concluded that adequate notice was provided to Ms. Baker and the informal conference proceeded in her absence.

The Committee fully discussed the allegations as referenced in the August 21, 2018, Notice of Informal Conference.

CLOSED SESSION: Upon a motion by Dr. Adler, and duly seconded by Dr. Locke, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Crystal Baker, PTA. Additionally, she moved that Ms. Helmick and Ms. Pearson attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the **27**

Committee re-convened in open session and announced its decision.

DECISION:

Upon a motion by Dr. Adler and duly seconded by Dr. Locke, the Committee voted to issue an Order requiring that Ms. Baker either provide evidence that she has completed the 30 hours of CE and 160 hours of active practice or place her license on "Inactive" status.

The motion carried.

ADJOURNMENT:

The Committee adjourned at 2:25 p.m.

Elizabeth Locke, PT, PhD, Chair

Corie Tillman Wolf, JD, Executive Director

Date

Date



Unapproved
VIRGINIA BOARD OF PHYSICAL THERAPY
SPECIAL CONFERENCE COMMITTEE
MINUTES

November 13, 2018

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233

CALL TO ORDER: A Special Conference Committee of the Board was called to order at 2:35 p.m.

MEMBERS PRESENT: Elizabeth Locke, PT, PhD, Chair
Tracey Adler, PT, DPT

DHP STAFF PRESENT: Corie Tillman Wolf, JD, Deputy Executive Director
Angela Pearson, Discipline Manager
Claire Foley, Adjudication Specialist

MATTER: **Keith Harris, PT**
Case # 184939

DISCUSSION: Mr. Harris appeared before the Committee in accordance with the Board's Notice of Informal Conference, dated August 21, 2018.

The Committee fully discussed the allegations as referenced in the August 21, 2018, Notice of Informal Conference.

CLOSED SESSION: Upon a motion by Dr. Adler, and duly seconded by Dr. Locke, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Keith Harris, PT. Additionally, she moved that Ms. Wolf and Ms. Pearson attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session and announced its decision.

DECISION: Upon a motion by Dr. Adler and duly seconded by Dr. Locke, the Committee moved to issue an Order to Dismiss the case against Keith Harris and Impose No Sanction due to insufficient evidence to warrant disciplinary action by the Board.

The motion carried.

ADJOURNMENT:

The Committee adjourned at 3:47 p.m.

Elizabeth Locke, PT, PhD, Chair

Corie Tillman Wolf, JD, Executive Director

Date

Date



Jonathan Bowling, PTA
Case #180767

IFC scheduled for November 13, 2018 at 1:00 p.m. was cancelled.

Unapproved
VIRGINIA BOARD OF PHYSICAL THERAPY
SPECIAL CONFERENCE COMMITTEE
MINUTES

January 14, 2018

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Henrico, Virginia 23233

- CALL TO ORDER:** A Special Conference Committee of the Board was called to order at 12:02 p.m.
- MEMBERS PRESENT:** Elizabeth Locke, PT, PhD, Chair
Tracey Adler, PT, DPT
- DHP STAFF PRESENT:** Lynne Helmick, Deputy Executive Director
Angela Pearson, Discipline Manager
Jess Kelley, Adjudication Specialist
- OTHERS PRESENT:** Eric Battle
- MATTER:** **Natasha S. Hentz, PTA**
Case # 190771
- DISCUSSION:** Ms. Hentz appeared before the Committee in accordance with the Board's Notice of Informal Conference, dated December 20, 2018.
- The Committee fully discussed the allegations as referenced in the December 20, 2018, Notice of Informal Conference.
- CLOSED SESSION:** Upon a motion by Dr. Adler, and duly seconded by Dr. Locke, the Committee voted to convene a closed meeting pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Natasha Hentz, PTA. Additionally, she moved that Ms. Helmick and Ms. Pearson attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.
- RECONVENE:** Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session.
- DECISION:** Upon a motion by Dr. Adler and duly seconded by Dr. Locke, the Committee moved to grant Ms. Hentz a physical therapist assistant license under probationary status with terms.

The motion carried.

ADJOURNMENT:

The Committee adjourned at 1:09 p.m.

Elizabeth Locke, PT, PhD, Chair

Corie Tillman Wolf, JD, Executive Director

Date

Date



Staff Reports

Virginia Department of Health Professions
Cash Balance
As of December 31, 2018

	116- Physical Therapy
Board Cash Balance as June 30, 2018	\$ 1,101,620
YTD FY19 Revenue	1,230,075
Less: YTD FY19 Direct and Allocated Expenditures	<u>293,387</u>
Board Cash Balance as December 31, 2018	<u><u>\$ 2,038,308</u></u>

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11600 - Physical Therapy
For the Period Beginning July 1, 2018 and Ending December 31, 2018

Account Number	Account Description	Amount	Budget	Amount	
				Under/(Over) Budget	% of Budget
4002400 Fee Revenue					
4002401	Application Fee	55,560.00	159,125.00	103,565.00	34.92%
4002406	License & Renewal Fee	1,167,765.00	1,194,470.00	26,705.00	97.76%
4002407	Dup. License Certificate Fee	535.00	550.00	15.00	97.27%
4002409	Board Endorsement - Out	5,540.00	9,600.00	4,060.00	57.71%
4002421	Monetary Penalty & Late Fees	675.00	5,235.00	4,560.00	12.89%
4002432	Misc. Fee (Bad Check Fee)	-	35.00	35.00	0.00%
	Total Fee Revenue	<u>1,230,075.00</u>	<u>1,369,015.00</u>	<u>138,940.00</u>	<u>89.85%</u>
	Total Revenue	1,230,075.00	1,369,015.00	138,940.00	89.85%
5011110 Employer Retirement Contrib.					
5011110	Employer Retirement Contrib.	6,188.34	14,378.00	8,189.66	43.04%
5011120 Fed Old-Age Ins- Sal St Emp					
5011120	Fed Old-Age Ins- Sal St Emp	3,313.02	8,135.00	4,821.98	40.73%
5011130 Fed Old-Age Ins- Wage Earners					
5011130	Fed Old-Age Ins- Wage Earners	-	796.00	796.00	0.00%
5011140 Group Insurance					
5011140	Group Insurance	599.57	1,394.00	794.43	43.01%
5011150 Medical/Hospitalization Ins.					
5011150	Medical/Hospitalization Ins.	15,202.16	43,248.00	28,045.84	35.15%
5011160 Retiree Medical/Hospitalizatn					
5011160	Retiree Medical/Hospitalizatn	536.10	1,245.00	708.90	43.06%
5011170 Long term Disability Ins					
5011170	Long term Disability Ins	285.24	660.00	374.76	43.22%
	Total Employee Benefits	<u>26,124.43</u>	<u>69,856.00</u>	<u>43,731.57</u>	<u>37.40%</u>
5011200 Salaries					
5011230 Salaries, Classified					
5011230	Salaries, Classified	46,322.79	106,340.00	60,017.21	43.56%
5011250 Salaries, Overtime					
5011250	Salaries, Overtime	138.81	-	(138.81)	0.00%
	Total Salaries	<u>46,461.60</u>	<u>106,340.00</u>	<u>59,878.40</u>	<u>43.69%</u>
5011300 Special Payments					
5011340 Specified Per Diem Payment					
5011340	Specified Per Diem Payment	550.00	3,250.00	2,700.00	16.92%
5011380 Deferred Compnstn Match Pmts					
5011380	Deferred Compnstn Match Pmts	13.50	960.00	946.50	1.41%
	Total Special Payments	<u>563.50</u>	<u>4,210.00</u>	<u>3,646.50</u>	<u>13.38%</u>
5011400 Wages					
5011410 Wages, General					
5011410	Wages, General	-	15,100.00	15,100.00	0.00%
	Total Wages	<u>-</u>	<u>15,100.00</u>	<u>15,100.00</u>	<u>0.00%</u>
5011600 Terminatn Personal Svce Costs					
5011620 Salaries, Annual Leave Balanc					
5011620	Salaries, Annual Leave Balanc	192.38	-	(192.38)	0.00%
5011640 Salaries, Cmp Leave Balances					
5011640	Salaries, Cmp Leave Balances	87.13	-	(87.13)	0.00%
	Total Terminatn Personal Svce Costs	<u>279.51</u>	<u>-</u>	<u>(279.51)</u>	<u>0.00%</u>
5011930 Turnover/Vacancy Benefits					
5011930	Turnover/Vacancy Benefits	-	-	-	0.00%
	Total Personal Services	<u>73,429.04</u>	<u>195,506.00</u>	<u>122,076.96</u>	<u>37.56%</u>
5012000 Contractual Svs					
5012100 Communication Services					
5012110 Express Services					
5012110	Express Services	-	50.00	50.00	0.00%
5012130 Messenger Services					
5012130	Messenger Services	8.80	-	(8.80)	0.00%
5012140 Postal Services					
5012140	Postal Services	2,578.36	5,750.00	3,171.64	44.84%
5012150 Printing Services					
5012150	Printing Services	102.44	600.00	497.56	17.07%
5012160 Telecommunications Svcs (VITA)					
5012160	Telecommunications Svcs (VITA)	158.79	1,000.00	841.21	15.88%
5012190 Inbound Freight Services					
5012190	Inbound Freight Services	8.62	-	(8.62)	0.00%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11600 - Physical Therapy
For the Period Beginning July 1, 2018 and Ending December 31, 2018

Account Number	Account Description	Amount			% of Budget
		Amount	Budget	Under/(Over) Budget	
	Total Communication Services	2,857.01	7,400.00	4,542.99	38.61%
5012200	Employee Development Services				
5012210	Organization Memberships	2,500.00	2,500.00	-	100.00%
5012240	Employee Training/Workshop/Conf	-	1,000.00	1,000.00	0.00%
	Total Employee Development Services	2,500.00	3,500.00	1,000.00	71.43%
5012300	Health Services				
5012360	X-ray and Laboratory Services	-	300.00	300.00	0.00%
	Total Health Services	-	300.00	300.00	0.00%
5012400	Mgmnt and Informational Svcs	-			
5012420	Fiscal Services	2,291.92	18,000.00	15,708.08	12.73%
5012440	Management Services	86.98	4,000.00	3,913.02	2.17%
5012470	Legal Services	-	300.00	300.00	0.00%
	Total Mgmnt and Informational Svcs	2,378.90	22,300.00	19,921.10	10.67%
5012500	Repair and Maintenance Svcs				
5012520	Electrical Repair & Maint Srvc	-	25.00	25.00	0.00%
5012530	Equipment Repair & Maint Srvc	1,044.10	600.00	(444.10)	174.02%
	Total Repair and Maintenance Svcs	1,044.10	625.00	(419.10)	167.06%
5012600	Support Services				
5012630	Clerical Services	-	19.00	19.00	0.00%
5012640	Food & Dietary Services	338.72	750.00	411.28	45.16%
5012660	Manual Labor Services	149.81	700.00	550.19	21.40%
5012670	Production Services	717.87	2,245.00	1,527.13	31.98%
5012680	Skilled Services	6,802.14	13,000.00	6,197.86	52.32%
	Total Support Services	8,008.54	16,714.00	8,705.46	47.92%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	1,417.57	3,500.00	2,082.43	40.50%
5012840	Travel, State Vehicles	-	500.00	500.00	0.00%
5012850	Travel, Subsistence & Lodging	165.42	1,500.00	1,334.58	11.03%
5012880	Trvl, Meal Reimb- Not Rprtble	124.50	300.00	175.50	41.50%
	Total Transportation Services	1,707.49	5,800.00	4,092.51	29.44%
	Total Contractual Svcs	18,496.04	56,639.00	38,142.96	32.66%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	845.25	1,000.00	154.75	84.53%
	Total Administrative Supplies	845.25	1,000.00	154.75	84.53%
5013300	Manufctrng and Merch Supplies				
5013350	Packaging & Shipping Supplies	-	50.00	50.00	0.00%
	Total Manufctrng and Merch Supplies	-	50.00	50.00	0.00%
5013500	Repair and Maint. Supplies				
5013530	Electrcal Repair & Maint Matrl	-	15.00	15.00	0.00%
	Total Repair and Maint. Supplies	-	15.00	15.00	0.00%
5013600	Residential Supplies				
5013620	Food and Dietary Supplies	6.41	200.00	193.59	3.21%

Virginia Department of Health Professions
Revenue and Expenditures Summary
Department 11600 - Physical Therapy
For the Period Beginning July 1, 2018 and Ending December 31, 2018

Account Number	Account Description	Amount	Budget	Amount	
				Under/(Over) Budget	% of Budget
5013630	Food Service Supplies	41.93	-	(41.93)	0.00%
	Total Residential Supplies	48.34	200.00	151.66	24.17%
5013700	Specific Use Supplies				
5013730	Computer Operating Supplies	-	10.00	10.00	0.00%
	Total Specific Use Supplies	-	10.00	10.00	0.00%
	Total Supplies And Materials	893.59	1,275.00	381.41	70.09%
5015000	Continuous Charges				
5015100	Insurance-Fixed Assets				
5015160	Property Insurance	38.44	29.00	(9.44)	132.55%
	Total Insurance-Fixed Assets	38.44	29.00	(9.44)	132.55%
5015300	Operating Lease Payments				
5015340	Equipment Rentals	3.66	-	(3.66)	0.00%
5015350	Building Rentals	2.40	-	(2.40)	0.00%
5015390	Building Rentals - Non State	3,100.61	6,226.00	3,125.39	49.80%
	Total Operating Lease Payments	3,106.67	6,226.00	3,119.33	49.90%
5015500	Insurance-Operations				
5015510	General Liability Insurance	138.09	107.00	(31.09)	129.06%
5015540	Surety Bonds	8.15	7.00	(1.15)	116.43%
	Total Insurance-Operations	146.24	114.00	(32.24)	128.28%
	Total Continuous Charges	3,291.35	6,369.00	3,077.65	51.68%
5022000	Equipment				
5022200	Educational & Cultural Equip				
5022240	Reference Equipment	-	60.00	60.00	0.00%
	Total Educational & Cultural Equip	-	60.00	60.00	0.00%
5022600	Office Equipment				
5022610	Office Appurtenances	-	35.00	35.00	0.00%
	Total Office Equipment	-	35.00	35.00	0.00%
	Total Equipment	-	95.00	95.00	0.00%
	Total Expenditures	96,110.02	259,884.00	163,773.98	36.98%
Allocated Expenditures					
20600	Funeral\LTCA\PT	55,291.72	104,110.65	48,818.93	53.11%
30100	Data Center	38,304.03	73,000.12	34,696.09	52.47%
30200	Human Resources	5,398.34	14,363.36	8,965.02	37.58%
30300	Finance	25,995.76	64,885.91	38,890.15	40.06%
30400	Director's Office	12,303.03	24,906.22	12,603.19	49.40%
30500	Enforcement	28,208.70	61,144.61	32,935.91	46.13%
30600	Administrative Proceedings	11,064.20	17,173.44	6,109.23	64.43%
30700	Impaired Practitioners	522.58	1,650.52	1,127.94	31.66%
30800	Attorney General	2,833.43	12,118.43	9,285.00	23.38%
30900	Board of Health Professions	8,900.84	20,712.64	11,811.80	42.97%
31100	Maintenance and Repairs	-	2,069.06	2,069.06	0.00%

Virginia Department of Health Professions
 Revenue and Expenditures Summary
 Department 11600 - Physical Therapy
 For the Period Beginning July 1, 2018 and Ending December 31, 2018

Account Number	Account Description	Amount	Budget	Amount Under/(Over)	
				Budget	% of Budget
31300	Emp. Recognition Program	45.37	318.67	273.30	14.24%
31400	Conference Center	63.01	181.02	118.02	34.81%
31500	Pgm Devlpmnt & Implmentn	8,345.94	15,037.52	6,691.59	55.50%
Total Allocated Expenditures		<u>197,276.94</u>	<u>411,672.19</u>	<u>214,395.25</u>	<u>47.92%</u>
Net Revenue in Excess (Shortfall) of Expenditures		<u>\$ 936,688.04</u>	<u>\$ 697,458.81</u>	<u>\$ (239,229.23)</u>	<u>134.30%</u>

Committee and Board Member Reports

In Attendance

Helene D. Clayton-Jeter, OD, Board of Optometry
Mark Johnson, DVM, Board of Veterinary Medicine
Allen R. Jones, Jr., DPT, PT, Board of Physical Therapy
Trula E. Minton, MS, RN, Board of Nursing
Herb Stewart, PhD, Board of Psychology
James D. Watkins, DDS, Board of Dentistry
James Wells, RPh, Citizen Member

Absent

Lisette P. Carbajal, MPA, Citizen Member
Kevin Doyle, EdD, LPC, LSATP, Board of Counseling
Louis R. Jones, FSL, Board of Funeral Directors and Embalmers
Derrick Kendall, NHA, Board of Long-Term Care Administrators
Alison R. King, PhD, CCC-SLP, Board of Audiology & Speech-Language Pathology
Ryan Logan, RPh, Board of Pharmacy
Kevin O'Connor, MD, Board of Medicine
Martha S. Rackets, PhD, Citizen Member
Maribel Ramos, Citizen Member
John M. Salay, MSW, Board of Social Work

DHP Staff

David Brown, DC, Director DHP
Elizabeth A. Carter, Ph.D., Executive Director BHP
Laura L. Jackson, MSHSA, Operations Manager BHP
Charise Mitchel, OAG
Yetty Shobo, PhD, Deputy Executive Director BHP
Elaine Yeatts, Senior Policy Analyst DHP

Presenters

Charles Giles, Budget Manager DHP
Yetty Shobo, PhD, Deputy Executive Direct BHP

Speakers

No speakers signed-in

Observers

No observers signed-in

Emergency Egress

Dr. Carter

Call to Order

Chair: Dr. Clayton-Jeter **Time** 10:07 a.m.
Quorum Not established 7 members in attendance, 9 needed for quorum

Public Comment

Discussion

There was no public comment

Welcome of New Board Members

Discussion

Dr. Clayton Jeter welcomed three new board members:

- Louis R. Jones, Board of Funeral Directors & Embalmers
- Alison R. King, PhD, CCC-SLP, Board of Audiology & Speech Language Pathology
- John M. Salay, MSW, board of Social Work

Legislative and Regulatory Report

Presenter Ms. Yeatts

Discussion

Ms. Yeatts advised the Board of updates to the laws and regulations that affect DHP currently in the General Assembly. There are currently 59 actions with 21 at the Governor's office.

Directors Report

Presenter Dr. Brown

Discussion

Dr. Brown reported that DHP has hired a contractor to assist with the creation of a new agency website. This new website will be user friendly for both internal staff as well as the public. IT has made it possible for boards to enter their own information on the agencies webpage.

Dr. Brown provided two handouts that included the Summary and Recommendations made by JLARC in the findings from the DPOR review. He stated that there were several comparisons in the report to DHP and how DHP can use the report findings as a blueprint for the future.

Approval of Minutes

Presenter Dr. Clayton-Jeter

Discussion

Approval of minutes was carried over to February 25, 2019 due to lack of quorum.

Board Chair Report

Presenter Dr. Clayton-Jeter

Discussion

Dr. Clayton-Jeter read the agencies Mission statement and stressed that it is each board members job to serve and protect the public.

Budget Report

Presenter Mr. Giles

Discussion

Mr. Giles reviewed the agencies FY20 Budget.

Executive Directors Report

Presenter Dr. Carter

Board Budget

Dr. Carter stated that the Board is operating under budget.

Agency Performance

Dr. Carter provided a review of the agencies current license count, applicant satisfaction survey results and cases received, open & closed.

Up for Review – Board Bylaws and Mission Statement

Dr. Carter stated that the Board will be reviewing its Bylaws and Mission statement. This discussion served as the start of the 30-day review period. A vote will be taken at the February 25, 2019 meeting.

Sanction Reference Points (SRP) - Update

SRP work for the boards is ongoing.

Policies & Procedures

Due to lack of quorum, this vote has been carried over to the February 25, 2019 meeting.

Lunch break - 12:05 p.m.

Healthcare Workforce Data Center (DHP HWDC)

Presenter Dr. Shobo

Discussion

Dr. Shobo provided a PowerPoint presentation that she presented at the annual Southern Demographics Association meeting that utilized DHP licensure data. She also advised the Board that DHP HWDC is up to date on all survey reports and posting of the workforce briefs and is in the process of collecting the survey data from December license renewals.

Board Reports

Presenter Dr. Clayton-Jeter

Board of Audiology & Speech Language Pathology

Dr. King was not present. There was no report for this Board.

Board of Counseling

Dr. Doyle was not present. There was no report for this Board.

Board of Dentistry

Dr. Watkins provided an overview of the Boards activities since its last meeting. He stated that since July 2018 they have received one new board member appointment and that the September 14, 2018 Board meeting was cancelled due to the hurricane. The Boards Regulatory and Legislative Review Committee met in October and SRP interviews are ongoing. The next board meeting is scheduled for December 14, 2018.

Board of Funeral Directors & Embalmers

Mr. Jones was not present. There was not report for this Board.

Board of Long Term Care Administrators

Mr. Kendall was not present. Dr. Carter provided his written update. The LTCA Board items of interest were that final regulations from its periodic review of regulations for both Assisted Living Facility

Administrators and Nursing Home Administrators are pending review in the Governor's Office. Additionally, one item of special interest on the Board's November agenda is Emergency Preparedness and the lessons learned from Hurricane Florence for LTC facilities. Board member Karen Stanfield, who oversees a number of nursing home facilities in the region, including in the Wilmington area of North Carolina, will share her insights about what went well and did not go well. This will likely stimulate discussion about the regulatory implications when there are emergencies of this magnitude.

Board of Medicine

Dr. O'Connor was not present. There was no report for this Board.

Board of Nursing

Ms. Minton stated that the Board last met November 13, 2018. She was happy to report that all Board staff vacancies within the department have been filled, and that Dr. Paula Saxby will be retiring in June 2019. She noted that Executive Director Jay Douglas has been appointed to the NCSBN Board of Directors. The Board is currently reviewing 14 guidance documents, including the prescribing of bupropion by licensed NPs. The Board had extensive turnover and is in the beginning phase of strategic planning for new board member training. Ms. Minton also stated that probable cause acceptance of recommendation was at 88%.

Board of Optometry

Dr. Clayton-Jeter provided an overview of the Boards activities since its last meeting. (Attachment 1)

Board of Pharmacy

Mr. Logan was not present. There was no report for this Board.

Board of Physical Therapy

Dr. Jones, Jr. provided an overview of the Boards activities since its last meeting. (Attachment 2)

Board of Psychology

Dr. Stewart provided an overview of the Boards activities since its last meeting. He stated that he and Ms. Hoyle attended the ASPPB annual meeting in Utah. The meeting focused on the roll-out of the Enhanced Examination for Professional practice in Psychology (EPPP), which would add a competency component to the current EPPP. Future meetings of the board will include discussion of the development of the competency part and its impact on Virginia.

Board of Social Work

Mr. Salay was not present. There was no report for this Board.

Board of Veterinary Medicine

Dr. Johnson provided an overview of the Boards activities since its last meeting. (Attachment 3)

DRAFT

Election of Officers - Nominating Committee

Presenter Ms. Haynes, Chair

Discussion

The Nominating Committee met prior to the Full Board meeting to organize a slate of officers for today's Chair and Vice Chair elections. Dr. Johnson stated that Dr. Allen Jones, Jr., submitted interest in the Chair position and James Wells, RPh, submitted interest in the Vice Chair position. Due to lack of quorum this vote will be carried over to the February 25, 2019 Full Board meeting.

New Business

Presenter Dr. Clayton-Jeter

No new business was discussed.

February 25, 2019 Full Board Meeting

Presenter Dr. Clayton-Jeter

Dr. Clayton-Jeter announced the next Full Board meeting date as February 25, 2019.

Adjourned

Adjourned 1:16 p.m.

Chair Helene Clayton-Jeter, OD

Signature: _____ Date: ____/____/____

Board Executive Director Elizabeth A. Carter, Ph.D.

Signature: _____ Date: ____/____/____

**Virginia Board of Optometry
Board of Health Professions Meeting
December 4, 2018**

Statistics

January 1 – December 4, 2018

Board - 3	Committee - 0	Disciplinary - 5
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Complaints (no further update)

FY2016 Received - 13	FY2017 Received - 36	FY2018 Received - 42	Y-T-D FY2019 Received - 7
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Licenses (in state/out of state based on address of record provided by licensee)

Licensure renewal is currently underway. There was a fee reduction with this renewal and a change in expiration date. The expiration date is moved to March 31. This year’s renewal will result in a license that is valid for 15 months.

FY2017

Total - 1,921	TPA - 1,148/390	DPA - 27/90	Professional Designations - 266
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Y-T-D as of 11/30/19

Total - 1,948	TPA - 1,178/407	DPA - 21/84	Professional Designations - 258
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Continuing Education

Audit underway.

Regulatory Changes

The Board is promulgating regulations for and inactive optometry license.

Board of Physical Therapy

Last Meeting: November 13, 2018

Current Items of Interest:

- **PT Licensure Compact** - In May, the Board voted to pursue legislation to enact the Physical Therapy Licensure Compact. This legislation would allow agreement between member states to improve access to physical therapy services for the public by increasing the mobility of eligible physical therapy providers to work in multiple states. The Board has received word that this legislation will be in the Governor's Legislative Package for 2019.
- In October, the Board received the 2018 Excellence in Regulation Award from the Federation of State Boards of Physical Therapy (FSBPT). The Board was one of two states chosen for the award.
- In November, the Board received training from Kim Small and Neal Kauder from Visual Research, Inc., regarding the Board's updated Sanctioning Reference Points (SRP) worksheets. The Board voted to make slight changes to the manual, which is being updated for use.
- The Board has initiated the periodic review process for its regulations related to the practice of physical therapy, as well as the Board's public participation guidelines.

**Virginia Board of Veterinary Medicine
Board of Health Professions Meeting
December 4, 2018**

Statistics

Next scheduled meeting is November 6, 2018.

Complaints (62 additional cases equates to a 31.5% increase; complexity of cases have also increased)

FY2016 Received – 197	FY2017 Received - 259	FY2018 Received - 217	Y-T-D FY2019 Received - 76
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Licenses (in state/out of state based on address of record provided by licensee)

Renewal currently underway.

Type of Licensee	Total # of Licensees	In-State Address Active/Inactive	Out-of-State Address Active/Inactive
Veterinarian	4,458	3234/56	946/222
Veterinary Technician	2,318	1,986/43	253/28
Equine Dental Technician	26	17/0	9/0
Veterinary Establishment Stationary & Ambulatory	1156		

Continuing Education

Continuing education (CE) audit is complete.

Inspection Update

Starting in January, the routine inspection process will focus on the most frequent types of violations, which are related to drug stocks and surgical suites. Focused inspection will be a better utilization of resources and improve efficiency of the inspection process. A focused inspection will not preclude and inspection from citing a violation related to other areas.

Legislation of Interest

The Board continues to oversee the new PMP reporting requirements for veterinarians. There are 1,163 veterinarians with a current, active license that have not completed a waiver or registered to report to the PMP. The Board is working with the PMP to resolved this issue.

Staffing Update

A Veterinary Review Coordinator has been added to board staff to help with the disciplinary caseload. The VRC has been delegated authority by the Board to make probable cause decisions for cases involving impairment, facility inspections violations, non-compliance with a board order and PMP reporting.

The next board meeting is scheduled for March 7, 2017.

Legislation and Regulatory Actions

Agenda Item: Board action on Petition for Rulemaking

Included in your agenda package are:

Copy of petition

A copy of the applicable section of regulations

Board action:

To accept Ms. Curley's petition and initiate rulemaking with adoption of a NOIRA; or to take no action to amend regulations (the reasons for declining to initiate rulemaking must be stated by the Board).



COMMONWEALTH OF VIRGINIA

Board of Physical Therapy

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

(804) 367-4674 (Tel)
(804) 527-4413 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition.

Please provide the information requested below. (Print or Type)		
Petitioner's full name (Last, First, Middle initial, Suffix.) Rosemarie A. Curley		
Street Address 347 Rossmere Drive	Area Code and Telephone Number (804) 929-5405	
City Midlothian	State VA	Zip Code 23114
Email Address (optional) rcurgolf@gmail.com	Fax (optional)	
Respond to the following questions:		
<p>1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending. Regulation §18VAC112-20-131.B.1. Continued competency requirements for renewal of an active license, Section B.1.</p>		
<p>2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule. REQUEST: Please add the National Strength and Conditioning Association (NSCA) to the list of organizations that can approve and/or provide "organized program of study, classroom experience or similar educational experience" for Type I CEUs for PTs and PTAs. REASON: I and other PTs and PTAs have attained our strength and conditioning specialist certifications (CSCS) through this organization, and the research-based information in the continuing education programs is beneficial to the well and rehabilitation populations seen by PTs/PTAs. Knowledge and skills gained from selected courses approved by the NSCA can be incorporated into the clinical practice of physical therapy. For example, NSCA-approved courses on nutrition, mobility, and training for adolescents and athletes can better inform PTs/PTAs who work with these populations on prevention of injury and/or allow a more seamless transition from rehab to return to sports.</p>		
<p>3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference. § 54.1-2400 General powers and duties of health regulatory board, section 1.</p>		
Signature:	<i>Rosemarie A. Curley, MPT, DPT, CSCS</i> Rosemarie A. Curley, MPT, DPT, CSCS	Date: 10/05/18

Virginia.gov Agencies | Governor



Logged in as

Elaine J. Yeatts

Secretariat Health and Human Resources**Agency** Department of Health Professions**Board** Board of Physical Therapy[Edit Petition](#)

Petition 284

Petition Information	
Petition Title	Recognition of NSCA as CE provider
Date Filed	10/10/2018 [Transmittal Sheet]
Petitioner	Rosemarie Curley
Petitioner's Request	To add the National Strength and Conditioning Association (NSCA) to list of organizations approved as a CE provider.
Agency's Plan	<p>In accordance with Virginia law, the petition has been filed with the Register of Regulations and will be published on November 12, 2018. Comment on the petition may be sent by email, regular mail or posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov; comment will be requested until December 12, 2018.</p> <p>Following receipt of all comments on the petition to amend regulations, the Board will decide whether to make any changes to the regulatory language. This matter will be on the Board's agenda for its meeting scheduled for February 19, 2019, and the petitioner will be informed of the Board's decision after that meeting.</p>
Comment Period	Ended 12/12/2018 0 comments
Agency Decision	Pending
Contact Information	
Name / Title:	Corie Tillman Wolf / <i>Executive Director</i>
Address:	9960 Mayland Drive Suite 300 Richmond, 23233
Email Address:	ptboard@dhp.virginia.gov
Telephone:	(804)367-4674 FAX: (804)527-4413 TDD: (-)

18VAC112-20-131. Continued Competency Requirements for Renewal of an Active License.

A. In order to renew an active license biennially, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. A minimum of 20 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants shall be in Type 1 courses. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

- a. The Virginia Physical Therapy Association;
- b. The American Physical Therapy Association;
- c. Local, state or federal government agencies;
- d. Regionally accredited colleges and universities;
- e. Health care organizations accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation;
- f. The American Medical Association - Category I Continuing Medical Education course;
- g. The National Athletic Trainers' Association; or
- h. The Federation of State Boards of Physical Therapy.

2. No more than 10 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include consultation with colleagues, independent study, and research or writing on subjects related to practice. Up to two of the Type 2 continuing education hours may be satisfied through delivery of physical therapy services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.
 4. Documentation of graduation from a transitional doctor of physical therapy program may be provided as evidence of completion of continuing competency requirements for the biennium in which the physical therapist was awarded the degree.
 5. A physical therapist who can document that he attained at least Level 2 on the FSBPT assessment tool may receive five hours of Type 1 credit for the biennium in which the assessment tool was taken. A physical therapist who can document that he attained at least Level 3 or 4 on the FSBPT assessment tool may receive 10 hours of Type 1 credit for the biennium in which the assessment tool was taken. Continuing competency credit shall only be granted for the FSBPT assessment tool once every four years.
- C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure by examination in Virginia.
- D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.
- E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.
- F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.
- G. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.
- H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Volume 19, Issue 01, eff. October 23, 2002; amended, Virginia Register Volume 25, Issue 18, eff. June 10, 2009; Volume 25, Issue 26, eff. September 30, 2009; Volume 29, Issue 21, eff. July 17, 2013; Volume 29, Issue 25, eff. September 26, 2013; Volume 32, Issue 03, eff. November 4, 2015; Volume 33, Issue 15, eff. May 5, 2017; Volume 34, Issue 10, eff. February 7, 2018; Volume 34, Issue 09, eff. February 8, 2018.

19101635D

SENATE BILL NO. 1106

Offered January 9, 2019

Prefiled December 21, 2018

A *BILL to amend and reenact §§ 2.2-3705.7 and 54.1-2400.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484 and an article numbered 2, consisting of sections numbered 54.1-3485 through 54.1-3496, relating to the licensure of physical therapists and physical therapist assistants; Physical Therapy Licensure Compact.*

Patrons—Peake; Delegate: Peace

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7 and 54.1-2400.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484 and an article numbered 2, consisting of sections numbered 54.1-3485 through 54.1-3496, as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of

2/4/19 9:47

59 formulating advisory opinions to members on standards of conduct, or both.

60 7. Customer account information of a public utility affiliated with a political subdivision of the
61 Commonwealth, including the customer's name and service address, but excluding the amount of utility
62 service provided and the amount of money charged or paid for such utility service.

63 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
64 Authority concerning individuals who have applied for or received loans or other housing assistance or
65 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
66 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the
67 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and
68 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the
69 waiting list for housing assistance programs funded by local governments or by any such authority; or
70 (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other
71 local government agency concerning persons who have applied for occupancy or who have occupied
72 affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's
73 own information shall not be denied.

74 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
75 disclosure of such information would have a detrimental effect upon the negotiating position of a
76 governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

77 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled
78 plant and animal species, natural communities, caves, and significant historic and archaeological sites if,
79 in the opinion of the public body that has the responsibility for such information, disclosure of the
80 information would jeopardize the continued existence or the integrity of the resource. This exclusion
81 shall not apply to requests from the owner of the land upon which the resource is located.

82 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a
83 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a
84 specific lottery game design, development, production, operation, ticket price, prize structure, manner of
85 selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of
86 drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such
87 information not been publicly released, published, copyrighted, or patented. Whether released, published,
88 or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon
89 the first day of sales for the specific lottery game to which it pertains.

90 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local
91 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a
92 trust established by one or more local public bodies to invest funds for post-retirement benefits other
93 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the
94 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of
95 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the
96 Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or
97 disposition of a security or other ownership interest in an entity, where such security or ownership
98 interest is not traded on a governmentally regulated securities exchange, if disclosure of such
99 information would (i) reveal confidential analyses prepared for the board of visitors of the University of
100 Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared
101 by the retirement system, a local finance board or board of trustees, or the Virginia College Savings
102 Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia
103 College Savings Plan under a promise of confidentiality of the future value of such ownership interest or
104 the future financial performance of the entity and (ii) have an adverse effect on the value of the
105 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board
106 of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of
107 William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
108 construed to prevent the disclosure of information relating to the identity of any investment held, the
109 amount invested, or the present value of such investment.

110 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or
111 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
112 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

113 14. Information held by the Virginia Commonwealth University Health System Authority pertaining
114 to any of the following: an individual's qualifications for or continued membership on its medical or
115 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
116 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
117 awarding contracts for construction or the purchase of goods or services; information of a proprietary
118 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
119 financial statements not publicly available that may be filed with the Authority from third parties; the
120 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid

121 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
 122 determination of marketing and operational strategies where disclosure of such strategies would be
 123 harmful to the competitive position of the Authority; and information of a proprietary nature produced
 124 or collected by or for employees of the Authority, other than the Authority's financial or administrative
 125 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
 126 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
 127 or a private concern, when such information has not been publicly released, published, copyrighted, or
 128 patented. This exclusion shall also apply when such information is in the possession of Virginia
 129 Commonwealth University.

130 15. Information held by the Department of Environmental Quality, the State Water Control Board,
 131 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active
 132 federal environmental enforcement actions that are considered confidential under federal law and (ii)
 133 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
 134 information shall be disclosed after a proposed sanction resulting from the investigation has been
 135 proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure
 136 of information related to inspection reports, notices of violation, and documents detailing the nature of
 137 any environmental contamination that may have occurred or similar documents.

138 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel
 139 itinerary, including vehicle identification data or vehicle enforcement system information; video or
 140 photographic images; Social Security or other identification numbers appearing on driver's licenses;
 141 credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll
 142 facility use.

143 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax
 144 identification number, state sales tax number, home address and telephone number, personal and lottery
 145 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
 146 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,
 147 hometown, and amount won shall be disclosed.

148 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a
 149 person regulated by the Board, where such person has tested negative or has not been the subject of a
 150 disciplinary action by the Board for a positive test result.

151 19. Information pertaining to the planning, scheduling, and performance of examinations of holder
 152 records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by
 153 or for the State Treasurer or his agents or employees or persons employed to perform an audit or
 154 examination of holder records.

155 20. Information held by the Virginia Department of Emergency Management or a local governing
 156 body relating to citizen emergency response teams established pursuant to an ordinance of a local
 157 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or
 158 operating schedule of an individual participant in the program.

159 21. Information held by state or local park and recreation departments and local and regional park
 160 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
 161 subdivision shall operate to prevent the disclosure of information defined as directory information under
 162 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the
 163 public body has undertaken the parental notification and opt-out requirements provided by such
 164 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of
 165 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction
 166 has restricted or denied such access. For such information of persons who are emancipated, the right of
 167 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of
 168 the information may waive, in writing, the protections afforded by this subdivision. If the protections are
 169 so waived, the public body shall open such information for inspection and copying.

170 22. Information submitted for inclusion in the Statewide Alert Network administered by the
 171 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
 172 or internet protocol information, telephone numbers, pager numbers, other wireless or portable
 173 communications device information, or operating schedules of individuals or agencies, where the release
 174 of such information would compromise the security of the Statewide Alert Network or individuals
 175 participating in the Statewide Alert Network.

176 23. Information held by the Judicial Inquiry and Review Commission made confidential by
 177 § 17.1-913.

178 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local
 179 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement
 180 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

181 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings

182 Plan on the pursuit of particular investment strategies, or the selection or termination of investment
183 managers, prior to the execution of such investment strategies or the selection or termination of such
184 managers, if disclosure of such information would have an adverse impact on the financial interest of
185 the retirement system or the Virginia College Savings Plan; and

186 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
187 private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records
188 would have an adverse impact on the financial interest of the retirement system or the Virginia College
189 Savings Plan.

190 For the records specified in subdivision b to be excluded from the provisions of this chapter, the
191 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

192 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which
193 protection from disclosure is sought;

194 (2) Identifying with specificity the data or other materials for which protection is sought; and

195 (3) Stating the reasons why protection is necessary.

196 The retirement system or the Virginia College Savings Plan shall determine whether the requested
197 exclusion from disclosure meets the requirements set forth in subdivision b.

198 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of
199 any investment held or the present value and performance of all asset classes and subclasses.

200 25. Information held by the Department of Corrections made confidential by § 53.1-233.

201 26. Information maintained by the Department of the Treasury or participants in the Local
202 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the
203 Department to establish accounts in accordance with § 2.2-4602.

204 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident
205 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers,
206 except that access shall not be denied to the person who is the subject of the information.

207 28. Information maintained in connection with fundraising activities by the Veterans Services
208 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone
209 number, social security number or other identification number appearing on a driver's license, or credit
210 card or bank account data of identifiable donors, except that access shall not be denied to the person
211 who is the subject of the information. Nothing in this subdivision, however, shall be construed to
212 prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or
213 donation or the identity of the donor, unless the donor has requested anonymity in connection with or as
214 a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply
215 to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the
216 foundation for the performance of services or other work or (ii) the terms and conditions of such grants
217 or contracts.

218 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the
219 training of state prosecutors or law-enforcement personnel, where such information is not otherwise
220 available to the public and the disclosure of such information would reveal confidential strategies,
221 methods, or procedures to be employed in law-enforcement activities or materials created for the
222 investigation and prosecution of a criminal case.

223 30. Information provided to the Department of Aviation by other entities of the Commonwealth in
224 connection with the operation of aircraft where the information would not be subject to disclosure by the
225 entity providing the information. The entity providing the information to the Department of Aviation
226 shall identify the specific information to be protected and the applicable provision of this chapter that
227 excludes the information from mandatory disclosure.

228 31. Information created or maintained by or on the behalf of the judicial performance evaluation
229 program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

230 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are
231 discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse
232 or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams
233 established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in
234 statistical or other aggregated form that does not disclose the identity of specific individuals.

235 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the
236 Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target
237 companies, specific allocation of resources and staff for marketing activities, and specific marketing
238 activities that would reveal to the Commonwealth's competitors for economic development projects the
239 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial
240 interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and
241 operational plan shall not be redacted or withheld pursuant to this subdivision.

242 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the
243 Executive Board or other committees of the Commission for purposes set forth in subsection E of

244 § 54.1-3491.

245 § 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary
246 proceeding; penalty.

247 A. Any reports, information or records received and maintained by the Department of Health
248 Professions or any health regulatory board in connection with possible disciplinary proceedings,
249 including any material received or developed by a board during an investigation or proceeding, shall be
250 strictly confidential. The Department of Health Professions or a board may only disclose such
251 confidential information:

252 1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or
253 order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;

254 2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or
255 registrations to practice a health profession, including the coordinated licensure information system, as
256 defined in § 54.1-3040.2 and the data system as set forth in § 54.1-3492;

257 3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final
258 determination regarding a violation has been made;

259 4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary
260 circumstances being shown;

261 5. To qualified personnel for bona fide research or educational purposes, if personally identifiable
262 information relating to any person is first deleted. Such release shall be made pursuant to a written
263 agreement to ensure compliance with this section; or

264 6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in
265 connection with health practitioners who apply to or participate in the Program.

266 B. In no event shall confidential information received, maintained or developed by the Department of
267 Health Professions or any board, or disclosed by the Department of Health Professions or a board to
268 others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence
269 in any civil action. This section shall not, however, be construed to inhibit an investigation or
270 prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

271 C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any
272 investigation or proceeding by any health regulatory board acting within the scope of its authority. The
273 disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such
274 privilege in any other proceeding.

275 D. This section shall not prohibit the Director of the Department of Health Professions, after
276 consultation with the relevant health regulatory board president or his designee, from disclosing to the
277 Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which
278 indicates a possible violation of any provision of criminal law, including the laws relating to the
279 manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified
280 as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

281 E. This section shall not prohibit the Director of the Department of Health Professions from
282 disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of
283 aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information
284 required to be made available to the public pursuant to § 54.1-2910.1.

285 F. This section shall not prohibit the Director of the Department of Health Professions, following
286 consultation with the relevant health regulatory board president or his designee, from disclosing
287 information about a suspected violation of state or federal law or regulation to other agencies within the
288 Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over
289 the suspected violation or requesting an inspection or investigation of a licensee by such state or federal
290 agency when the Director has reason to believe that a possible violation of federal or state law has
291 occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or
292 federal agency having jurisdiction over the suspected violation of state or federal law to conduct an
293 inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to
294 requests for inspections or investigations of licensees. Nothing in this subsection shall require the
295 Director to make any disclosure. Nothing in this section shall permit any agency to which the Director
296 makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials
297 received from the Department.

298 G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by
299 a health regulatory board, the source and the subject of a complaint or report shall be provided
300 information about the investigative and disciplinary procedures at the Department of Health Professions.
301 Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the
302 licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee
303 shall be provided with a copy of the complaint or report and any records or supporting documentation,
304 unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant

board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subdivision A 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

§ 54.1-3484. Criminal history background checks.

The Board shall require each applicant for licensure as a physical therapist or physical therapist assistant to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.

The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the Board, which shall be a governmental entity. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. The information shall not be disseminated except as provided in this section.

Article 2.

Physical Therapy Licensure Compact.

§ 54.1-3485. Form of compact; declaration of purpose.

A. The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Physical Therapy Licensure Compact with any and all jurisdictions legally joining therein according to its terms, in the form substantially as follows.

B. The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient is located at the time of the patient encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

- 1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;*
- 2. Enhance the states' ability to protect the public's health and safety;*
- 3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;*
- 4. Support spouses of relocating military members;*
- 5. Enhance the exchange of licensure, investigative, and disciplinary information between member*

367 states; and

368 6. Allow a remote state to hold a provider of services with a compact privilege in that state
369 accountable to that state's practice standards.

370 **§ 54.1-3486. Definitions.**

371 As used in this Compact, and except as otherwise provided, the following definitions shall apply:

372 "Active duty military" means full-time duty status in the active uniformed service of the United States,
373 including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§
374 1209 and 1211.

375 "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon
376 misconduct, unacceptable performance, or a combination of both.

377 "Alternative program" means a nondisciplinary monitoring or practice remediation process approved
378 by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

379 "Compact privilege" means the authorization granted by a remote state to allow a licensee from
380 another member state to practice as a physical therapist or work as a physical therapist assistant in the
381 remote state under its laws and rules. The practice of physical therapy occurs in the member state
382 where the patient/client is located at the time of the patient/client encounter.

383 "Continuing competence" means a requirement, as a condition of license renewal, to provide
384 evidence of participation in, and/or completion of, educational and professional activities relevant to
385 practice or area of work.

386 "Data system" means a repository of information about licensees, including examination, licensure,
387 investigative, compact privilege, and adverse action.

388 "Encumbered license" means a license that a physical therapy licensing board has limited in any
389 way.

390 "Executive Board" means a group of directors elected or appointed to act on behalf of, and within
391 the powers granted to them, by the Commission.

392 "Home state" means the member state that is the licensee's primary state of residence.

393 "Investigative information" means information, records, and documents received or generated by a
394 physical therapy licensing board pursuant to an investigation.

395 "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and
396 rules governing the practice of physical therapy in a state.

397 "Licensee" means an individual who currently holds an authorization from the state to practice as a
398 physical therapist or to work as a physical therapist assistant.

399 "Member state" means a state that has enacted the Compact.

400 "Party state" means any member state in which a licensee holds a current license or compact
401 privilege or is applying for a license or compact privilege.

402 "Physical therapist" means an individual who is licensed by a state to practice physical therapy.

403 "Physical therapist assistant" means an individual who is licensed or certified by a state and who
404 assists the physical therapist in selected components of physical therapy.

405 "Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care
406 and services provided by or under the direction and supervision of a licensed physical therapist as
407 defined by § 54.1-3473.

408 "Physical Therapy Compact Commission" or "Commission" means the national administrative body
409 whose membership consists of all states that have enacted the Compact.

410 "Physical therapy licensing board" or "licensing board" means the agency of a state that is
411 responsible for the licensing and regulation of physical therapists and physical therapist assistants.

412 "Remote state" means a member state other than the home state, where a licensee is exercising or
413 seeking to exercise the compact privilege.

414 "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force
415 of law.

416 "State" means any state, commonwealth, district, or territory of the United States of America that
417 regulates the practice of physical therapy.

418 **§ 54.1-3487. State participation in the Compact.**

419 A. To participate in the Compact, a state must:

420 1. Participate fully in the Commission's data system, including using the Commission's unique
421 identifier as defined in rules;

422 2. Have a mechanism in place for receiving and investigating complaints about licensees;

423 3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse
424 action or of the availability of investigative information regarding a licensee;

425 4. Fully implement a criminal background check requirement, within a time frame established by
426 rule, by receiving the results of the Federal Bureau of Investigation record search on criminal
427 background checks and use the results in making licensure decisions in accordance with subsection B of

428 § 54.1-3488;

429 5. Comply with the rules of the Commission;

430 6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of
431 the Commission; and

432 7. Have continuing competence requirements as a condition for license renewal.

433 B. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based
434 information from each physical therapy licensure applicant and shall submit this information to the
435 Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. § 534
436 and 42 U.S.C. § 14616.

437 C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered
438 license in another member state in accordance with the terms of the Compact and rules.

439 D. Member states may charge a fee for granting a compact privilege.

440 **§ 54.1-3488. Compact privilege.**

441 A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee
442 shall:

443 1. Hold a license in the home state;

444 2. Have no encumbrance on any state license;

445 3. Be eligible for a compact privilege in any member state in accordance with subsections D, G, and
446 H;

447 4. Have not had any adverse action against any license or compact privilege within the previous two
448 years;

449 5. Notify the Commission that the licensee is seeking the compact privilege within a remote state or
450 remote states;

451 6. Pay any applicable fees, including any state fee, for the compact privilege;

452 7. Meet any jurisprudence requirements established by the remote state or states in which the
453 licensee is seeking a compact privilege; and

454 8. Report to the Commission adverse action taken by any nonmember state within 30 days from the
455 date the adverse action is taken.

456 B. The compact privilege is valid until the expiration date of the home license. The licensee must
457 comply with the requirements of subsection A to maintain the compact privilege in the remote state.

458 C. A licensee providing physical therapy in a remote state under the compact privilege shall function
459 within the laws and regulations of the remote state.

460 D. A licensee providing physical therapy in a remote state is subject to that state's regulatory
461 authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's
462 compact privilege in the remote state for a specific period of time, impose fines, and/or take any other
463 necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a
464 compact privilege in any state until the specific time for removal has passed and all fines are paid.

465 E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote
466 state until the following occur:

467 1. The home state license is no longer encumbered; and

468 2. Two years have elapsed from the date of the adverse action.

469 F. Once an encumbered license in the home state is restored to good standing, the licensee must
470 meet the requirements of subsection A to obtain a compact privilege in any remote state.

471 G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the
472 compact privilege in any remote state until the following occur:

473 1. The specific period of time for which the compact privilege was removed has ended;

474 2. All fines have been paid; and

475 3. Two years have elapsed from the date of the adverse action.

476 H. Once the requirements of subsection G have been met, the licensee must meet the requirements in
477 subsection A to obtain a compact privilege in a remote state.

478 **§ 54.1-3489. Active duty military personnel or their spouses.**

479 A licensee who is active duty military or is the spouse of an individual who is active duty military
480 may designate one of the following as the home state:

481 1. Home of record;

482 2. Permanent Change of Station (PCS); or

483 3. State of current residence if it is different from the PCS state or home of record.

484 **§ 54.1-3490. Adverse actions.**

485 A. A home state shall have exclusive power to impose adverse action against a license issued by the
486 home state.

487 B. A home state may take adverse action based on the investigative information of a remote state, so
488 long as the home state follows its own procedures for imposing adverse action.

489 C. Nothing in this Compact shall override a member state's decision that participation in an

490 alternative program may be used in lieu of adverse action and that such participation shall remain
491 non-public if required by the member state's laws. Member states must require licensees who enter any
492 alternative programs in lieu of discipline to agree not to practice in any other member state during the
493 term of the alternative program without prior authorization from such other member state.

494 D. Any member state may investigate actual or alleged violations of the statutes and rules
495 authorizing the practice of physical therapy in any other member state in which a physical therapist or
496 physical therapist assistant holds a license or compact privilege.

497 E. A remote state shall have the authority to:

498 1. Take adverse actions as set forth in subsection D of § 54.1-3488 against a licensee's compact
499 privilege in the state;

500 2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of
501 witnesses and the production of evidence. Subpoenas issued by a physical therapy licensing board in a
502 party state for the attendance and testimony of witnesses and/or the production of evidence from another
503 party state shall be enforced in the latter state by any court of competent jurisdiction, according to the
504 practice and procedure of that court applicable to subpoenas issued in proceedings pending before it.
505 The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the
506 service statutes of the state where the witnesses and/or evidence are located; and

507 3. If otherwise permitted by state law, recover from the licensee the costs of investigations and
508 disposition of cases resulting from any adverse action taken against that licensee.

509 F. Joint investigations.

510 1. In addition to the authority granted to a member state by its respective physical therapy practice
511 act or other applicable state law, a member state may participate with other member states in joint
512 investigations of licensees.

513 2. Member states shall share any investigative, litigation, or compliance materials in furtherance of
514 any joint or individual investigation initiated under the Compact.

515 **§ 54.1-3491. Establishment of the Physical Therapy Compact Commission.**

516 A. The Compact member states hereby create and establish a joint public agency known as the
517 Physical Therapy Compact Commission.

518 1. The Commission is an instrumentality of the Compact states.

519 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
520 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
521 located. The Commission may waive venue and jurisdictional defenses to the extent that it adopts or
522 consents to participate in alternative dispute resolution proceedings.

523 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

524 B. Membership, voting, and meetings.

525 1. Each member state shall have and be limited to one delegate selected by that member state's
526 licensing board.

527 2. The delegate shall be a current member of the licensing board who is a physical therapist, a
528 physical therapist assistant, a public member, or the board administrator.

529 3. Any delegate may be removed or suspended from office as provided by the law of the state from
530 which the delegate is appointed.

531 4. The member state board shall fill any vacancy occurring in the Commission.

532 5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation
533 of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the
534 Commission.

535 6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws
536 may provide for delegates' participation in meetings by telephone or other means of communication.

537 7. The Commission shall meet at least once during each calendar year. Additional meetings shall be
538 held as set forth in the bylaws.

539 C. The Commission shall have the following powers and duties:

540 1. Establish the fiscal year of the Commission;

541 2. Establish bylaws;

542 3. Maintain its financial records in accordance with the bylaws;

543 4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

544 5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this
545 Compact. The rules shall have the force and effect of law and shall be binding in all member states;

546 6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that
547 the standing of any state physical therapy licensing board to sue or be sued under applicable law shall
548 not be affected;

549 7. Purchase and maintain insurance and bonds;

550 8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a

551 *member state;*

552 9. Hire employees, elect or appoint officers, fix compensation, define duties, and grant such
553 individuals appropriate authority to carry out the purposes of the Compact and establish the
554 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
555 personnel, and other related personnel matters;

556 10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials,
557 and services and receive, utilize and dispose of the same, provided that at all times the Commission
558 shall avoid any appearance of impropriety and/or conflict of interest;

559 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or
560 use any property, real, personal or mixed, provided that at all times the Commission shall avoid any
561 appearance of impropriety;

562 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property,
563 real, personal, or mixed;

564 13. Establish a budget and make expenditures;

565 14. Borrow money;

566 15. Appoint committees, including standing committees composed of members, state regulators, state
567 legislators or their representatives, and consumer representatives and such other interested persons as
568 may be designated in this Compact and the bylaws;

569 16. Provide and receive information from, and cooperate with, law-enforcement agencies;

570 17. Establish and elect an Executive Board; and

571 18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this
572 Compact consistent with the state regulation of physical therapy licensure and practice.

573 D. The Executive Board.

574 The Executive Board shall have the power to act on behalf of the Commission according to the terms
575 of this Compact.

576 1. The Executive Board shall be composed of nine members as follows:

577 a. Seven voting members who are elected by the Commission from the current membership of the
578 Commission

579 b. One ex officio, nonvoting member from the recognized national physical therapy professional
580 association; and

581 c. One ex officio, nonvoting member from the recognized membership organization of the physical
582 therapy licensing boards.

583 2. The ex officio members will be selected by their respective organizations.

584 3. The Commission may remove any member of the Executive Board as provided in bylaws.

585 4. The Executive Board shall meet at least annually.

586 5. The Executive Board shall have the following duties and responsibilities:

587 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact
588 legislation, fees paid by Compact member states such as annual dues, and any Commission Compact fee
589 charged to licensees for the compact privilege;

590 b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

591 c. Prepare and recommend the budget;

592 d. Maintain financial records on behalf of the Commission;

593 e. Monitor Compact compliance of member states and provide compliance reports to the
594 Commission;

595 f. Establish additional committees as necessary; and

596 g. Perform other duties as provided in rules or bylaws.

597 E. Meetings of the Commission.

598 1. All meetings shall be open to the public, and public notice of meetings shall be given in the same
599 manner as required under the rulemaking provisions in § 54.1-3493.

600 2. The Commission or the Executive Board or other committees of the Commission may convene in a
601 closed, nonpublic meeting if the Commission or Executive Board or other committees of the Commission
602 must discuss:

603 a. Noncompliance of a member state with its obligations under the Compact;

604 b. The employment, compensation, discipline, or other matters, practices, or procedures related to
605 specific employees or other matters related to the Commission's internal personnel practices and
606 procedures;

607 c. Current, threatened, or reasonably anticipated litigation;

608 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

609 e. Accusing any person of a crime or formally censuring any person;

610 f. Disclosure of trade secrets or commercial or financial information that is privileged or
611 confidential;

612 g. Disclosure of information of a personal nature where disclosure would constitute a clearly

613 unwarranted invasion of personal privacy;

614 h. Disclosure of investigative records compiled for law-enforcement purposes;

615 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
616 use of the Commission or other committee charged with responsibility of investigation or determination
617 of compliance issues pursuant to the Compact; or

618 j. Matters specifically exempted from disclosure by federal or member state statute.

619 3. If a meeting or portion of a meeting is closed pursuant to this provision, the Commission's legal
620 counsel or designee shall certify that the meeting may be closed and shall reference each relevant
621 exempting provision.

622 4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a
623 meeting and shall provide a full and accurate summary of actions taken and the reasons therefor,
624 including a description of the views expressed. All documents considered in connection with an action
625 shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under
626 seal, subject to release by a majority vote of the Commission or order of a court of competent
627 jurisdiction.

628 F. Financing of the Commission.

629 1. The Commission shall pay or provide for the payment of the reasonable expenses of its
630 establishment, organization, and ongoing activities.

631 2. The Commission may accept any and all appropriate revenue sources, donations, and grants of
632 money, equipment, supplies, materials, and services.

633 3. The Commission may levy on and collect an annual assessment from each member state or impose
634 fees on other parties to cover the cost of the operations and activities of the Commission and its staff,
635 which must be in a total amount sufficient to cover its annual budget as approved each year for which
636 revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated
637 based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon
638 all member states.

639 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to
640 meet the same; nor shall the Commission pledge the credit of any of the member states, except by and
641 with the authority of the member state.

642 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and
643 disbursements of the Commission shall be subject to the audit and accounting procedures established
644 under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be
645 audited yearly by a certified or licensed public accountant, and the report of the audit shall be included
646 in and become part of the annual report of the Commission.

647 G. Qualified immunity, defense, and indemnification.

648 1. The members, officers, executive director, employees, and representatives of the Commission shall
649 be immune from suit and liability, either personally or in their official capacity, for any claim for
650 damage to or loss of property or personal injury or other civil liability caused by or arising out of any
651 actual or alleged act, error, or omission that occurred or that the person against whom the claim is
652 made had a reasonable basis for believing occurred within the scope of Commission employment, duties,
653 or responsibilities, provided that nothing in this subdivision shall be construed to protect any such
654 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
655 willful or wanton misconduct of that person.

656 2. The Commission shall defend any member, officer, executive director, employee, or representative
657 of the Commission in any civil action seeking to impose liability arising out of any actual or alleged
658 act, error, or omission that occurred within the scope of Commission employment, duties, or
659 responsibilities or that the person against whom the claim is made had a reasonable basis for believing
660 occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing
661 herein shall be construed to prohibit that person from retaining his or her own counsel and provided
662 further that the actual or alleged act, error, or omission did not result from that person's intentional or
663 willful or wanton misconduct.

664 3. The Commission shall indemnify and hold harmless any member, officer, executive director,
665 employee, or representative of the Commission for the amount of any settlement or judgment obtained
666 against that person arising out of any actual or alleged act, error, or omission that occurred within the
667 scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis
668 for believing occurred within the scope of Commission employment, duties, or responsibilities, provided
669 that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton
670 misconduct of that person.

671 § 54.1-3492. Data system.

672 A. The Commission shall provide for the development, maintenance, and utilization of a coordinated
673 database and reporting system containing licensure, adverse action, and investigative information on all

674 *licensed individuals in member states.*

675 *B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a*
 676 *uniform data set to the data system on all individuals to whom this Compact is applicable as required*
 677 *by the rules of the Commission, including:*

678 *1. Identifying information;*

679 *2. Licensure data;*

680 *3. Adverse actions against a license or compact privilege;*

681 *4. Nonconfidential information related to alternative program participation;*

682 *5. Any denial of application for licensure, and the reason or reasons for such denial; and*

683 *6. Other information that may facilitate the administration of this Compact, as determined by the*
 684 *rules of the Commission.*

685 *C. Investigative information pertaining to a licensee in any member state will only be available to*
 686 *other party states.*

687 *D. The Commission shall promptly notify all member states of any adverse action taken against a*
 688 *licensee or an individual applying for a license. Adverse action information pertaining to a licensee in*
 689 *any member state will be available to any other member state.*

690 *E. Member states contributing information to the data system may designate information that may*
 691 *not be shared with the public without the express permission of the contributing state.*

692 *F. Any information submitted to the data system that is subsequently required to be expunged by the*
 693 *laws of the member state contributing the information shall be removed from the data system.*

694 **§ 54.1-3493. Rulemaking.**

695 *A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this*
 696 *section and the rules adopted thereunder. Rules and amendments shall become binding as of the date*
 697 *specified in each rule or amendment.*

698 *B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or*
 699 *resolution in the same manner used to adopt the Compact within four years of the date of adoption of*
 700 *the rule, then such rule shall have no further force and effect in any member state.*

701 *C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the*
 702 *Commission.*

703 *D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30*
 704 *days in advance of the meeting at which the rule will be considered and voted upon, the Commission*
 705 *shall file a Notice of Proposed Rulemaking:*

706 *1. On the website of the Commission or other publicly accessible platform; and*

707 *2. On the website of each member state physical therapy licensing board or other publicly accessible*
 708 *platform or the publication in which each state would otherwise publish proposed rules.*

709 *E. The Notice of Proposed Rulemaking shall include:*

710 *1. The proposed time, date, and location of the meeting in which the rule will be considered and*
 711 *voted upon;*

712 *2. The text of the proposed rule or amendment and the reason for the proposed rule;*

713 *3. A request for comments on the proposed rule from any interested person; and*

714 *4. The manner in which interested persons may submit notice to the Commission of their intention to*
 715 *attend the public hearing and any written comments.*

716 *F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data,*
 717 *facts, opinions, and arguments, which shall be made available to the public.*

718 *G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or*
 719 *amendment if a hearing is requested by:*

720 *1. At least 25 persons;*

721 *2. A state or federal governmental subdivision or agency; or*

722 *3. An association having at least 25 members.*

723 *H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place,*
 724 *time, and date of the scheduled public hearing. If the hearing is held via electronic means, the*
 725 *Commission shall publish the mechanism for access to the electronic hearing.*

726 *1. All persons wishing to be heard at the hearing shall notify the executive director of the*
 727 *Commission or other designated member in writing of their desire to appear and testify at the hearing*
 728 *not less than five business days before the scheduled date of the hearing.*

729 *2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair*
 730 *and reasonable opportunity to comment orally or in writing.*

731 *3. All hearings shall be recorded. A copy of the recording shall be made available on request.*

732 *4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules*
 733 *may be grouped for the convenience of the Commission at hearings required by this section.*

734 *I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if*
 735 *the hearing was not held, the Commission shall consider all written and oral comments received.*

736 J. If no written notice of intent to attend the public hearing by interested parties is received, the
737 Commission may proceed with promulgation of the proposed rule without a public hearing.

738 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
739 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
740 text of the rule.

741 L. Upon determination that an emergency exists, the Commission may consider and adopt an
742 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
743 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the
744 rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.
745 For the purposes of this provision, an emergency rule is one that must be adopted immediately in order
746 to:

- 747 1. Meet an imminent threat to public health, safety, or welfare;
- 748 2. Prevent a loss of Commission or member state funds;
- 749 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law
750 or rule; or
- 751 4. Protect public health and safety.

752 M. The Commission or an authorized committee of the Commission may direct revisions to a
753 previously adopted rule or amendment for purposes of correcting typographical errors, errors in format,
754 errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the
755 website of the Commission. The revision shall be subject to challenge by any person for a period of 30
756 days after posting. The revision may be challenged only on grounds that the revision results in a
757 material change to a rule. A challenge shall be made in writing and delivered to the chair of the
758 Commission prior to the end of the notice period. If no challenge is made, the revision will take effect
759 without further action. If the revision is challenged, the revision may not take effect without the
760 approval of the Commission.

761 **§ 54.1-3494. Oversight, dispute resolution, and enforcement.**

762 A. Oversight.

763 1. The executive, legislative, and judicial branches of state government in each member state shall
764 enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's
765 purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have
766 standing as statutory law.

767 2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative
768 proceeding in a member state pertaining to the subject matter of this Compact which may affect the
769 powers, responsibilities, or actions of the Commission.

770 3. The Commission shall be entitled to receive service of process in any such proceeding and shall
771 have standing to intervene in such a proceeding for all purposes. Failure to provide service of process
772 to the Commission shall render a judgment or order void as to the Commission, this Compact, or
773 promulgated rules.

774 B. Default, technical assistance, and termination.

775 1. If the Commission determines that a member state has defaulted in the performance of its
776 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

- 777 a. Provide written notice to the defaulting state and other member states of the nature of the default,
778 the proposed means of curing the default, and/or any other action to be taken by the Commission; and
- 779 b. Provide remedial training and specific technical assistance regarding the default.

780 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
781 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and
782 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the
783 default does not relieve the offending state of obligations or liabilities incurred during the period of
784 default.

785 3. Termination of membership in the Compact shall be imposed only after all other means of
786 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the
787 Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and
788 each of the member states.

789 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities
790 incurred through the effective date of termination, including obligations that extend beyond the effective
791 date of termination.

792 5. The Commission shall not bear any costs related to a state that is found to be in default or that
793 has been terminated from the Compact, unless agreed upon in writing between the Commission and the
794 defaulting state.

795 6. The defaulting state may appeal the action of the Commission by petitioning the United States
796 District Court for the District of Columbia or the federal district where the Commission has its

797 principal offices. The prevailing member shall be awarded all costs of such litigation, including
 798 reasonable attorney fees.

799 C. Dispute resolution.

800 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the
 801 Compact that arise among member states and between member and nonmember states.

802 2. The Commission shall promulgate a rule providing for both mediation and binding dispute
 803 resolution for disputes as appropriate.

804 D. Enforcement.

805 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
 806 rules of this Compact.

807 2. By majority vote, the Commission may initiate legal action in the United States District Court for
 808 the District of Columbia or the federal district where the Commission has its principal offices against a
 809 member state in default to enforce compliance with the provisions of the Compact and its promulgated
 810 rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial
 811 enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including
 812 reasonable attorney fees.

813 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may
 814 pursue any other remedies available under federal or state law.

815 **§ 54.1-3495. Date of implementation of the Interstate Commission for Physical Therapy Practice**
 816 **and associated rules, withdrawal, and amendment.**

817 A. The Compact shall come into effect on the date on which the Compact statute is enacted into law
 818 in the tenth member state. The provisions, which become effective at that time, shall be limited to the
 819 powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the
 820 Commission shall meet and exercise rulemaking powers necessary to the implementation and
 821 administration of the Compact.

822 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall
 823 be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any
 824 rule that has been previously adopted by the Commission shall have the full force and effect of law on
 825 the day the Compact becomes law in that state.

826 C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

827 1. A member state's withdrawal shall not take effect until six months after enactment of the repealing
 828 statute.

829 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy
 830 licensing board to comply with the investigative and adverse action reporting requirements of this act
 831 prior to the effective date of withdrawal.

832 D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical
 833 therapy licensure agreement or other cooperative arrangement between a member state and a
 834 nonmember state that does not conflict with the provisions of this Compact.

835 E. This Compact may be amended by the member states. No amendment to this Compact shall
 836 become effective and binding upon any member state until it is enacted into the laws of all member
 837 states.

838 **§ 54.1-3496. Construction and severability.**

839 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
 840 this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is
 841 declared to be contrary to the constitution of any party state or the Constitution of the United States, or
 842 the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
 843 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
 844 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of
 845 any party state, the Compact shall remain in full force and effect as to the remaining party states and in
 846 full force and effect as to the party state affected as to all severable matters.

847 **2. That the provisions of this act shall become effective on January 1, 2020.**

848 **3. That the Board of Physical Therapy shall promulgate regulations to implement the provisions of**
 849 **this act to be effective within 280 days of its enactment.**